

<p style="text-align: right;">Page 178</p> <p>1 an organigramme they needed the okay from Mr. 2 Murphy. 3 Q. In the U.S.? 4 A. In the U.S., yeah. 5 Q. From Bentley? 6 A. From Bentley. 7 MR. BOSTWICK: I don't have anything 8 further. 9 MR. MINGOLLA: Can we go off the 10 record a minute? 11 MR. BOSTWICK: Sure. 12 THE VIDEOGRAPHER: The time is 13 15:28:36. Off the record. 14 (A short recess was taken.) 15 THE VIDEOGRAPHER: On the record. 16 The time is 15:33:35. 17 MS. ABREU: Mr. Liorzou, I have just 18 a few follow-up questions for you. 19 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT 20 BY MS. ABREU: 21 Q. At the meeting in St. Cloud in</p>	<p style="text-align: right;">Page 180</p> <p>1 discusses the -- 2 A. Yes. 3 Q. What was discussed at the Murphy 4 table? 5 A. Yes. Okay. 6 Q. Could you tell us where in that page 7 Bentley Pharmaceuticals is mentioned? 8 A. It is not written. 9 Q. It is not written? 10 A. No. 11 Q. Can you tell us anywhere in that 12 internal memorandum that you drafted about that 13 meeting in St. Cloud where the word Bentley 14 Pharmaceuticals is mentioned? 15 A. No. 16 Q. Back to page 1 which mentions what 17 was discussed at the table with Mr. Murphy, Mr. 18 Leduc and Mr. Germain, would it be fair to say 19 that the discussions involved the business of 20 Laboratorious Belmac? 21 A. Yes.</p>
<p style="text-align: right;">Page 179</p> <p>1 November of 2000 did Mr. Murphy ever tell you 2 that he was at that meeting as a representative 3 of Bentley? 4 MR. BOSTWICK: I say objection. 5 That is asked and answered. 6 BY MS. ABREU: 7 Q. You can answer the question 8 A. No. 9 Q. And would you mind taking a look at 10 the document marked as Exhibit 7. Focusing on 11 page 1, the part of the document that 12 summarizes the discussions at the table where 13 Mr. Leduc, Mr. Murphy and Mr. Germain -- 14 MR. BOSTWICK: That is not Exhibit 15 7. I think you mean 9. 16 MS. ABREU: It was marked as 9. I 17 apologize. 18 BY MS. ABREU: 19 Q. Exhibit 9. The note? 20 A. Uh-huh. 21 Q. Do you see the first page that</p>	<p style="text-align: right;">Page 181</p> <p>1 Q. On also that first page, that first 2 sentence where it mentions that Ethypharm was 3 going to send a draft contract to Belmac, do 4 you see where it says that? 5 A. Uh-huh. 6 Q. In parentheses do you see where it 7 says "GC"? 8 A. Yes. 9 Q. Could you tell us what GC stands 10 for? 11 A. No. I'm sorry. I am trying to -- 12 GC. No. I'm sorry. 13 Q. You don't recall? 14 A. No. No. I tried to see what it can 15 be, but, no. I'm sorry. 16 Q. Okay. Did Mr. Herrera ever tell you 17 that he did not have the power to negotiate 18 contracts on behalf of Belmac? 19 MR. BOSTWICK: Do you mean without 20 the authorization of Bentley? 21 MS. ABREU: The question stands as</p>

46 (Pages 178 to 181)

<p style="text-align: right;">Page 182</p> <p>1 it is.</p> <p>2 A. No.</p> <p>3 Q. Did Mr. Herrera ever tell you that</p> <p>4 he did not have the power on his own to</p> <p>5 negotiate -- to negotiate any of the matters</p> <p>6 discussed in the important issues that you</p> <p>7 mentioned at table 1 with Mr. Murphy in the St.</p> <p>8 Cloud meeting that is discussed in Exhibit 9?</p> <p>9 A. No.</p> <p>10 Q. Did Mr. Murphy ever tell you that</p> <p>11 Mr. Herrera did not have the power to negotiate</p> <p>12 contracts on behalf of Belmac?</p> <p>13 A. No.</p> <p>14 Q. Did Mr. Murphy ever tell you that</p> <p>15 Mr. Herrera did not have the power to negotiate</p> <p>16 any of the matters discussed on page 1 of</p> <p>17 Exhibit 9 that were discussed at the Murphy</p> <p>18 table?</p> <p>19 A. No, he didn't.</p> <p>20 Q. Have you ever heard that Mr. Murphy</p> <p>21 was the president of Laboriatorious Belmac in</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. Aside from the organizational chart</p> <p>2 are you aware of any other issue as to which</p> <p>3 anyone at Ethypharm was ever told by a Belmac</p> <p>4 general manager -- why don't you translate that</p> <p>5 part -- that they needed authorization from</p> <p>6 anyone at Bentley in the United States?</p> <p>7 A. I don't know. Honestly, I don't</p> <p>8 remember.</p> <p>9 MS. ABREU: I have no further</p> <p>10 questions. Thank you, Mr. Liorzou.</p> <p>11 THE WITNESS: Thank you.</p> <p>12 MR. BOSTWICK: We can go off.</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 15:43:41. Off the record.</p> <p>15 This ends Tape 3 and concludes the</p> <p>16 testimony of Yves Liorzou in the matter of</p> <p>17 Ethypharm versus Bentley. The date is July 7,</p> <p>18 2006. The time is 15:45:24. Off the record.</p> <p>19 (Whereupon, the proceeding was</p> <p>20 concluded at 3:45 p.m.)</p> <p>21</p>
<p style="text-align: right;">Page 183</p> <p>1 Spain?</p> <p>2 A. No.</p> <p>3 Q. And if you could turn to Exhibit 10</p> <p>4 for a minute. Again, in paragraph 3 where it</p> <p>5 says that for the organigramme general manager</p> <p>6 in Belmac told us they had to receive</p> <p>7 authorization from Mr. Murphy, the president of</p> <p>8 the company?</p> <p>9 MR. BOSTWICK: In the U.S.</p> <p>10 MS. ABREU: In the U.S.</p> <p>11 BY MR. ABREU:</p> <p>12 Q. Aside from this one instance</p> <p>13 involving the organizational chart were you</p> <p>14 personally aware of any issue that when</p> <p>15 Ethypharm was told by a Belmac general manager</p> <p>16 that they needed authorization from Jim Murphy?</p> <p>17 A. I can't tell you. No, I don't</p> <p>18 think.</p> <p>19 Q. You don't remember?</p> <p>20 A. I don't remember exactly. I prefer</p> <p>21 to say that. I don't remember.</p>	<p style="text-align: right;">Page 185</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, YVES LIORZOU, do hereby acknowledge I have</p> <p>3 read and examined the foregoing pages of</p> <p>4 testimony, and the same is a true, correct and</p> <p>5 complete transcription of the testimony given</p> <p>6 by me, and any changes or corrections, if any,</p> <p>7 appear in the attached errata sheet signed by</p> <p>8 me.</p> <p>9 _____</p> <p>10 Date YVES LIORZOU</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>

47 (Pages 182 to 185)

<p style="text-align: right;">Page 186</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, Bonnie L. Russo, the officer before</p> <p>3 whom the foregoing deposition was taken, do</p> <p>4 hereby certify that the witness whose testimony</p> <p>5 appears in the foregoing deposition was duly</p> <p>6 sworn by me; that the testimony of said witness</p> <p>7 was taken by me in shorthand and thereafter</p> <p>8 reduced to computerized transcription under my</p> <p>9 direction; that said deposition is a true</p> <p>10 record of the testimony given by said witness;</p> <p>11 that I am neither counsel for, related to, nor</p> <p>12 employed by any of the parties to the action in</p> <p>13 which this deposition was taken; and further,</p> <p>14 that I am not a relative or employee of any</p> <p>15 attorney or counsel employed by the parties</p> <p>16 hereto, nor financially or otherwise interested</p> <p>17 in the outcome of the action.</p> <p>18 _____</p> <p>19 Notary Public in and for</p> <p>20 the District of Columbia</p> <p>21 My Commission expires: May 14, 2010</p>	<p style="text-align: right;">Page 188</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 CASE CAPTION: ETHYPHARM VS. BENTLEY</p> <p>3 DEPONENT: YVES LIORZOU</p> <p>4 DEPOSITION DATE: JULY 7, 2006</p> <p>5 I have read the entire transcript of my</p> <p>6 Deposition taken in the captioned matter or the</p> <p>7 same has been read to me. I request that the</p> <p>8 changes noted on the following errata sheet be</p> <p>9 entered upon the record for the reasons</p> <p>10 indicated. I have signed my name to the Errata</p> <p>11 Sheet and the appropriate Certificate and</p> <p>12 authorize you to attach both to the original</p> <p>13 transcript.</p> <table border="1"> <thead> <tr> <th>PAGE/LINE</th> <th>CHANGE</th> <th>REASON</th> </tr> </thead> <tbody> <tr><td>8</td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td></tr> </tbody> </table> <p>19 SIGNATURE _____ DATE _____</p> <p>20 YVES LIORZOU</p> <p>21</p>	PAGE/LINE	CHANGE	REASON	8			9			10			11			12			13			14			15			16			17			18		
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8																																					
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<p style="text-align: right;">Page 187</p> <p>1 Mr. Dwight Bostwick</p> <p>2 1201 F Street, NW</p> <p>3 Suite 500</p> <p>4 Washington, DC 20004</p> <p>5</p> <p>6 IN RE: Ethypharm vs. Bentley</p> <p>7</p> <p>8 Dear Mr Bostwick:</p> <p>9 Enclosed please find your copy of the</p> <p>10 deposition of YVES LIORZOU along with the</p> <p>11 original signature page. As agreed, you will</p> <p>12 be responsible for contacting the witness</p> <p>13 regarding reading and signing the transcript.</p> <p>14 Within 30 days of receipt, please forward</p> <p>15 errata sheet and original signature page signed</p> <p>16 to opposing counsel.</p> <p>17 If you would like to change this procedure or</p> <p>18 if you have any questions, please do not</p> <p>19 hesitate to call.</p> <p>20 Thank you.</p> <p>21 Yours,</p> <p>Bonnie L. Russo</p> <p>Reporter/Notary</p>																																					

48 (Pages 186 to 188)

ESQUIRE DEPOSITION SERVICES

1-866-619-3925

JT-A-941

A	185:1	Alvarez 24:13	arrangement 91:2	135:8 148:16
AAS 38:15	acquiesce 72:10	Ambiguous 162:10	98:19	154:11 155:1
able 103:8	172:18 174:14	174:2	arrival 21:15 34:4	156:6 183:14
Abreu 3:12 4:3 5:21	act 173:16	America 17:3 29:12	arrive 41:16	184:2
5:21 7:6,11 11:1,2	acted 161:14	29:16	arrived 22:1 34:2,3	a.m 2:7 5:12
13:6,18 14:4	acting 91:9 162:8	American 8:11,14	34:7,7 125:6	
15:18 19:2,7 22:8	162:16	12:1,4,8,14	article 155:2,5	
23:9,12 24:1,6	action 5:8 6:6 7:13	amount 25:20	aside 16:9 63:2	Baach 2:12 3:5 5:9
25:16 26:3 28:4	186:12,17	ANGELL 3:14	89:12 107:1 108:2	back 14:13 15:1,19
30:19 31:11 33:20	active 93:1,5	annex 120:17	127:19 140:5	16:3 23:1 33:13
35:2,13,20 37:10	activities 15:5 47:3	answer 9:16 10:2	156:5 161:5	40:10 46:15 47:6
37:15 43:7,11	activity 45:15 87:4	10:17 13:19 17:14	183:12 184:1	61:15 64:20 65:7
44:18 45:7 46:8	93:2 145:13	33:21 34:17,19	asked 53:8 60:18	73:21 80:3,17
48:18 49:1 51:10	address 8:3 46:11	35:1 60:14 65:6	94:5 164:11	83:8,10 85:12
57:18 60:3,8,13	165:18	77:7 79:8,9,11	167:10 179:5	87:21 94:10 95:7
61:6,13 64:1,8	addressed 125:3	87:17 94:6 97:20	asking 8:15 73:6,7	103:6 116:1,2,14
65:8 69:2,7,8	administrative 35:2	104:16 112:9,10	73:10	124:2 180:16
70:11 71:7 72:21	Adolfo 23:20,21	126:6 132:15	aspect 36:14 121:17	background 132:19
73:8,10,15 74:11	24:2 40:19 41:18	139:12 156:20	aspects 172:6	133:9
76:20 77:3,8 78:9	45:12 48:8 50:8	179:7	Aspirin 38:14,16	backtrack 53:3
79:9,21 81:1,18	51:8 53:18 55:7	answered 60:19	56:14	bad 76:10 86:20
83:4,6 86:9 87:16	55:13 66:3,10	94:5 138:15,17	assist 6:20	based 36:9 75:15
87:20 90:4 93:16	77:13 100:1	179:5	assistant 76:11	78:14
94:9 100:20 102:3	104:21 105:1,1	answers 9:7	assume 81:6	basics 8:13
102:8,11 108:19	109:21 112:17	anticipate 6:8 118:1	assurance 14:12	Basilio 23:20,21
109:2 110:20	114:19 120:14	Antonio 138:6	85:20 86:1,3,18	24:3 40:19 41:19
111:10,16 112:8	122:11 124:21	anybody 55:5 89:7	98:5	45:12 46:5 47:19
116:13 117:17	125:3 139:19,21	89:13 100:17	assure 35:9	48:8 50:9 51:9
118:10,14,18	140:1,15 147:16	101:12,17 102:1,2	attach 188:6	55:7,8,13,20 66:3
122:1,4 123:18	147:19,21 151:14	106:1 116:5 129:9	attached 185:7	66:10 70:20 71:3
124:5 126:5 130:2	152:20,21 160:14	162:7,15	attendance 50:1	71:6 100:1 105:1
130:7 132:8,14,17	161:14 166:18	anyway 42:1 80:14	158:5	109:21 112:17
132:21 133:7	167:7 174:7	96:7 120:9	attended 40:11	114:19 120:14
137:17 138:20	175:17	apart 16:15 71:3	44:21	122:11,14 125:3
139:4 141:10,11	advise 56:21	apologize 123:21	attention 66:21	128:7 140:1,15,18
145:8,14,19 146:3	afternoon 117:20	141:19 179:17	68:2,14 71:18	147:16 148:1
149:20 150:10	118:2,11 150:11	apparently 110:11	110:2 136:1 137:5	151:14 152:20,21
151:16 154:17	164:8	110:19	137:8,21 175:18	160:14 166:18
163:17 164:11	ago 77:12 119:3	appear 185:7	attorney 132:11	167:8 169:7
165:15 166:7	agree 108:12	APPEARANCES	133:18 186:15	174:12 175:18
167:10 171:14	129:15	3:1	attorneys 10:4	basis 54:14 74:13
172:13,21 173:17	agreed 10:21 63:7	appeared 68:20	163:15	74:13,14,15
174:2,8 177:20	64:18 187:9	69:15,21 70:1	attorney-client	122:12 132:15
178:17,20 179:6	agreement 4:12	appears 136:2	132:5,13	beginning 40:3 88:8
179:16,18 181:21	25:19 99:7 119:11	186:5	auparavant 111:3	behalf 135:15,19
183:10,11 184:9	121:4,12,17 122:6	apply 112:20	authority 173:16,21	161:14,20 162:8
accent 29:2	122:9 128:8	appreciate 22:15	authorization 104:6	162:16 181:18
access 105:16	141:18,21 142:17	64:4 122:2	177:3,18 181:20	182:12
accord 25:18	143:6,11 144:2	appropriate 188:6	183:7,16 184:5	belief 122:12
accurate 35:17	145:1 148:15	approval 174:16	authorize 188:6	believe 16:4 33:11
115:17 135:9	151:1,7,8,11	approximately 5:12	authorized 33:7	41:4 50:12 53:7
172:9,15 173:2	153:18,19 154:3	14:17 26:4 39:19	135:15,19	54:7 62:18,21
acetylde 38:14,15	157:18	49:2 63:20 82:15	Avenue 3:15	63:4 64:1 65:9
38:16 56:14	agreements 150:19	87:7 88:21 113:20	avoid 122:3	67:18,21 68:3
acid 38:14,15,16	151:20 152:3,7,18	157:5	aware 44:14 78:4	74:17 75:3,7
56:14	153:4,12	April 176:12	78:12 112:19	76:13 77:13 80:5
acknowledge 185:2	airport 41:14	area 49:8	121:12 125:7	80:6,8 82:1 85:19
ACKNOWLEDG...	allowed 117:15	areas 17:1	126:13 127:19	86:3 87:8 89:2

Page 190

92:21 93:20 95:3	119:17,21 120:11	174:6 177:18	160:15,19,21	chairman 42:18
97:12 98:9,15	120:13 121:8,13	178:5,6 179:3	161:6	165:16
99:3,4 101:3	123:6,11 127:6,21	180:7,13 181:20	Brazil 13:11,16	chance 9:15,18
105:14 106:3	128:9 129:4,11	184:6,17 187:5	14:1,1,6,13 15:1	43:12 120:18,21
107:5,19 109:10	131:3 135:9,12	188:1	15:19 29:11	175:10,11
115:8,9,21 117:7	136:11 137:14	Bentley's 160:8	Brazilian 15:15	change 50:20 79:6
117:9 118:15	142:1,8,12,19	best 20:6 35:7	16:10	80:2 149:21 175:2
122:10 123:20	143:5,10 144:11	63:15 77:9 159:5	break 9:20 10:1,11	187:13 188:7
127:17 134:6,7,11	145:3 146:21	better 22:1,18	48:17,20 61:7	changes 185:6
134:18 135:17	147:8,13,19	beyond 132:6	117:18 118:12	188:4
138:11 140:15	148:11,17 149:1	big 15:20 41:14	breaking 117:18	characterization
141:13,16,18	149:13,17 150:19	159:4	breaks 9:19 10:4	17:14 107:9
142:7 144:4,5	151:7,8 152:7,19	bind 162:3	163:14	charge 15:9,12
148:8,12 151:6	153:4,12,20 154:8	bit 9:18 28:1 53:3	bring 64:15 137:4,7	16:19 17:1,5,7,21
152:14,20,21	154:12,19 155:15	95:8 101:4 127:1	165:2	18:4 54:20 83:15
153:1,2 158:11	155:21 156:2,7	bits 174:20	brought 43:1 61:2	88:3,14 136:15
159:17 167:14	157:12 161:19	board 18:21 19:1,3	business 4:8 12:2	145:12 150:15
169:19 171:2	163:10 166:1,18	19:10 21:18,19	12:15 32:6,11,13	chart 177:13
173:11	169:13 170:8,10	bold 71:20	54:14 68:4 97:5	183:13 184:1
Belmac 31:5,8,13	171:9,13,19	Bonnie 1:20 2:20	164:18 165:2,12	check 157:21
31:16,19,20 32:2	172:11,20 174:7	5:16 186:2 187:19	180:19	chief 165:16
32:2,6,14,15 33:4	177:2,17 180:20	boss 18:9 84:5	busy 30:3,5	circulate 156:10
34:11,11,13 36:20	181:3,18 182:12	Boston 3:16	buying 93:3,4	circulated 156:11
37:6,9,12,14 38:2	182:21 183:6,15	Bostwick 3:3 4:4	B-E-N-H-A-M	circumstances 25:6
38:2,5,8,9 39:2,12	184:3	6:4,5 7:15 10:8,9	88:20	Civil 5:7
40:20 41:1,6,21	Belmac's 67:9 89:9	13:17 15:13 17:13	B-O-U-D-A-L	claiming 155:16
42:9,11,14,14,15	92:1 143:17	19:5 22:13 23:2,7	20:11 40:18	clarification 34:21
44:2,15 46:1 50:9	144:18 148:18	31:9,15 33:9,19		clarify 9:4 18:12
51:1 52:8,15	162:21 163:5	34:15 35:4,7,18	C	22:10 32:7 48:9
53:21 56:1,8,11	belonging 156:1	43:4 45:5 46:16	C 3:12 4:1	57:7 62:19 71:8
57:14,20 58:2,4,7	benefit 36:3	48:15 60:11,18	Cabodevilla 138:6	73:5 84:2 96:8
58:19 59:8 60:6	Benham 88:16,19	61:4 64:5 73:5,9	call 187:14	102:4 114:9 115:9
60:10 62:10,14	88:19 89:1 95:9	76:18 77:1 78:8	called 7:2 79:2	Claude 151:14,17
63:6 64:11,13,17	95:19 116:18	80:21 81:4 82:21	91:11	clear 9:11 10:7
68:19 69:9 70:3	Benham's 88:17	85:17 86:7 87:14	cancel 126:14	14:19 28:7 34:1
72:13,15 75:2	Bentley 1:10 5:5	90:2,9 91:4 94:5	capacity 64:14,15	40:15 67:16 85:3
76:2 78:3,6,13,19	6:1,3 7:12 30:15	100:7,19 101:15	64:16	102:16 104:15
80:19 81:9,16,19	30:21 31:1,19,21	102:15 107:4	CAPTION 188:1	111:20 116:9
82:5,19 83:18,20	40:21 42:18 44:3	111:8 112:5 113:8	captioned 188:3	119:4 134:16
83:20 84:3,3,11	50:10 52:7,15,19	116:7 117:21	card 4:8 42:21 54:6	137:10 139:14
84:17 85:4,8,14	52:21 54:5,6,8,13	118:4 121:15	54:14 164:18	clearly 38:12 88:13
86:6 87:11 88:10	54:19 58:11,14	126:3 132:4,10,16	165:2,12 166:1	client 30:15 34:13
89:15,20 90:6,13	62:14 67:9 75:6	132:20 137:15	care 30:6 34:10	36:5 37:18 46:19
91:3,8,10,12,19	79:19 83:2 89:7	141:8 145:6	38:7 84:9	80:7 91:14,16
91:20 92:19 93:10	89:13 92:5,9,13	154:14 155:17	career 12:18	93:7 101:7 105:10
94:11,14,18 95:12	93:19 94:2,21	156:20 162:9	case 8:11 93:6	105:12 107:19
96:12,21 97:17,18	100:17 102:5,13	163:20 164:7	163:13 188:1	108:11,12 170:11
98:2,17 99:2,16	106:1 107:2	167:20 168:3	centralize 46:21	170:11
100:2,5,6 102:21	115:19 122:17,20	171:13 174:3,5,19	115:4	clients 17:6 34:9
103:4,11 104:3,19	135:15,20 141:5	175:4,8 178:7,11	certain 96:4 169:12	35:16 36:1,3,7
105:5,6,9,10,15	143:16,21 145:16	179:4,14 181:19	169:13	38:10 46:14,19
105:19 106:7,11	150:8 151:20	183:9 184:12	certainly 23:10	57:4 58:3,3,6 94:1
106:13 107:7,18	152:3 154:4,8	187:1,7	116:16 132:20	103:10,20,21
108:1,4 110:11	159:21 160:5	bottom 29:12 131:7	157:7	104:4,20 105:5,6
111:12 112:3	161:10,15,20	Boudal 20:9,11	Certificate 186:1	105:17 107:8
113:7,16 114:6	162:3,8,16,21	40:17,17 41:11	188:6	108:1,4,6 112:4
115:15 116:3,6,19	163:5 165:17	72:8 114:17 148:8	certified 5:15	113:7 115:16,20
117:10,16 119:17	166:4,16 171:4	148:10 149:16,17	certify 186:4	127:4 128:17

129:1,2,3,4 136:19 close 47:8 49:14,19 97:18 closed 27:10,13,16 Cloud 13:13,13 40:6,7,8 44:6 48:14 49:10,14 61:16 158:5 159:10 166:5 168:14 178:21 180:13 182:8 coating 149:4,5,6,7 149:7,13,18 Coegnard 17:20 colleague 6:2 7:11 colleagues 135:2 147:18 156:10 colon 46:11,12 Columbia 186:20 come 23:1 comfort 10:16 comfortable 23:5 28:6 coming 7:8 129:14 comment 10:9 commercial 14:15 15:7 16:12,17 18:14 21:8 22:3 23:14 34:3 38:21 39:7 74:1 113:3 Commission 186:21 communicated 74:6 76:5 communication 76:14 140:16 155:19 158:21 160:4 communications 143:9,16,21 144:8 144:16 companies 52:5,12 52:13 53:13,13,20 59:18 105:7 119:16 172:2,7 company 12:2,4,8 12:14 31:1 32:16 52:18 54:3,10 59:8 67:10 76:1 79:1 113:11 132:11 165:12 177:4,12 183:8 complain 137:1 complaining 85:1,2 85:3,4 126:19 130:14 complaint 137:9 complaints 113:5	116:1 117:11 137:8,12 complete 185:5 completely 20:21 127:8 169:3 Compound 31:15 computer 76:11 77:18 computerized 186:8 concept 23:3 concerning 53:19 95:18 99:15 136:5 136:12 143:11 148:17 153:17,19 153:20 157:19 163:6 168:14 concierge 18:20 concluded 184:20 concludes 184:15 Conclusions 71:20 confidentiality 99:7 152:7,18 153:4,12 153:17,18 154:3 157:18 confirm 73:16 confirming 72:2 confused 38:19 confuses 176:10 confusion 83:7 consenting 76:2 consideration 126:7 126:7 consistent 72:18 73:11 consultant 11:6,7 11:17 12:10 consulting 11:20 12:15 contact 84:17 99:1 108:13 117:16 158:21 160:4 contacted 84:10,14 85:8 96:21 116:5 116:20 117:10 contacting 187:10 contacts 23:18 39:1 39:8 84:16 136:11 160:12 content 126:2 contents 131:19 133:20 134:9,14 context 121:18,21 continue 144:1 continued 142:1,12 142:21 143:4,17 144:10,19 continuing 70:3,4	contract 30:1,3 52:6 59:17,19 60:9,17 61:2,21 62:3,4,5,8,9,14,17 63:2 70:3 90:18 110:13 111:14,14 123:15,16 124:13 126:8,14 129:10 142:5 143:15 144:9,17 171:15 171:18,21 181:3 contracts 110:16 112:4 171:8 181:18 182:12 control 108:11 conversation 23:8 45:12 51:3 56:6 75:4 76:15 142:6 159:8 167:11 conversations 134:13 148:10 149:18 cook 149:9 copy 4:8 64:6 155:6 155:19 187:8 corner 51:16 correct 42:6 48:11 56:3 58:19 62:20 69:4,11 71:11 102:6 148:2 150:16 164:18 166:6,21 167:3 169:11,21 171:5,7 185:4 corrections 185:6 correctly 137:3 cost 94:12 95:1 costs 91:13 94:15 170:9 counsel 5:18 7:2,5 64:1 122:1 164:6 168:5 178:19 186:11,15 187:12 countries 18:1 103:11,15 country 60:4 couple 61:15 67:1 77:21 course 15:15 19:11 22:4 38:13 53:8 75:4 105:10 114:17,19 137:1 160:16 169:1 court 1:2 5:7,15 6:14,20 8:17 80:2 101:9 128:18 cover 77:21 create 14:1 47:1	created 112:18 crisis 95:16 96:12 96:14 cup 77:19 current 177:11 currently 11:3 customer 17:5,8,9 18:7,13 37:5,9,12 37:19 45:16 46:21 46:21 47:2,4,5,14 50:19 81:15,16,19 82:13,14 83:16 87:3 88:4,15,15 89:1 91:9 95:7,12 95:21 97:1 98:9 113:4,5 114:4,11 115:1,5,6 136:12 136:15,16,18 137:7 138:4,9 143:8 customers 105:5 106:1,2,6,21 110:14,17 111:15 136:12 143:4 Czechoslovakia 103:15 C-O-E-G-N-A-R-D 17:21 C.A 1:4 D D 3:4 daily 74:13 date 13:5 39:16 41:7 49:8 79:19 109:15 116:10 124:16 130:17 150:8 166:14 175:21 184:17 185:10 188:2,18 dated 4:13,14,15,16 4:17,18 dates 15:17,17 20:5 168:15 176:11 day 9:20 10:19 41:12 74:19 109:18 121:18 days 119:3 187:11 DC 187:2 De 23:20,21 24:2 40:19 41:18 45:12 46:5 47:19 48:8 50:8 51:8 55:7,8 55:13,20 66:3,10 70:20 71:3,6 100:1 105:1 109:21 112:17 114:19 120:14	122:11,14 125:3 128:6 140:1,15,18 147:16,21 151:14 152:20,21 160:14 166:18 167:7 169:7 174:12 175:18 dealt 113:4 Dear 187:7 Debregeas 155:8,10 155:18 156:2,5,9 156:15 157:11 160:16,17 December 130:19 139:13 decide 25:12 114:21 174:13 decided 114:3 137:4,7 171:17 deciding 54:21 decision 26:10 114:10,14 129:10 173:21 defendant 1:12 3:11 5:3 7:5,13 178:19 define 21:20 definite 14:21 definitive 14:21 degree 133:12 156:21 Delaware 1:3 5:7 delay 113:14 127:4 127:15,16,17 130:15 delays 113:15,16 116:3 127:10,18 127:19 128:3 delegate 13:21 101:12,13,17 deliver 83:18 136:18 delivered 93:7 105:13 delivering 38:3 83:21 84:3 136:19 delivery 4:11 127:5 127:10 130:15 delve 36:13 department 116:5 133:5 143:8 156:9 departure 25:7 depending 10:16 22:3 74:18 depends 19:12 28:7 28:8,8,19 29:2 DEPONENT 185:1 188:2
---	--	--	--	--

depose 7:9	163:13	176:1 179:10,11	efficient 84:21	34:9 35:14,15,16
deposed 8:10	discussed 10:10	documentation	effort 22:16 41:18	36:3,5,18,21 37:3
deposition 1:15	45:1 48:11 51:18	99:5,13,14 100:16	eight 14:11 15:21	37:4,7,11,13,15
2:10 5:2,8,14,17	52:1 53:16 55:12	documents 90:16	either 10:17 60:20	37:16 38:1,3,5,7
6:8 8:14 30:20	57:3 60:17 61:20	98:17 99:10 168:8	98:2,18 100:21	44:14 45:14 46:10
32:3 43:9 65:4	63:3 70:13 71:5	168:12,13	105:4,21 144:21	49:20 50:6,6,8
79:13 106:12	75:2 125:20,20	DODGE 3:14	elaborate 101:4	51:1 52:7,15
108:21 118:16	132:12 169:20	doing 45:16 107:15	127:1	53:14,15,15,21,21
124:3 130:5 139:2	170:2 171:3,9,16	126:19 129:20	Eloy 24:8,9,10,11	54:2,3,3,8,9,10
146:1 150:2 168:1	172:10,17 173:5	150:18	47:16	55:5 56:2,2,9 58:1
175:6 186:3,5,9	180:3,17 182:6,8	double 81:8,8	employed 11:4	58:1 60:2,7,10
186:13 187:9	182:16,17	157:21	12:19 13:3,8 27:2	62:9,13 63:9
188:1,2,3	discusses 180:1	doubt 22:21 112:2	27:9 29:3 154:10	64:18 71:3,6,10
described 66:16	discussing 55:21	draft 62:9 153:15	186:12,15	74:1,3,7 75:1,9
71:1	57:9 59:13,15	153:18 171:7,18	employee 186:14	77:1,3 78:3,5,6,13
details 59:14	73:1 75:6,8,11,14	171:21 181:3	employees 26:20	78:16,19 79:18
develop 45:19 63:9	121:7 125:17	drafted 62:16 77:14	177:12,14	80:10,10,18 81:10
developed 36:4,15	140:21	131:14 180:12	employment 97:15	81:17,19,20 82:4
developer 36:12	discussion 52:17	drafting 152:18	98:20 159:20	82:5,7 85:13
development 20:17	53:4,5,19 54:2	drafts 133:21	160:3,13	86:11,12 87:11
different 13:9 17:1	56:21 58:9 64:19	153:11	Enclosed 187:8	89:9,15,20 90:6
26:20,20 28:9	128:10,11,14	draw 66:21 68:2,14	ended 14:15 123:7	90:14 91:2,8,9,11
34:12 50:5 55:11	134:18 149:1,13	71:18	ends 79:12 150:1	91:13,14,15,16
67:1 69:3 93:8	discussions 53:10	drug 78:14 81:21	184:15	92:10,15,18 93:3
103:10 114:13	73:18 89:8 128:5	89:16,17 92:14,15	English 10:13,17	93:6,9,17 94:11
115:6,11 159:15	128:12 129:8	113:18 121:3	22:16 28:2,6,15	94:14,19 95:1,8
176:3,12 177:9	140:17 147:13	152:4 153:5 163:7	29:4 30:12 67:5	97:15 98:18,20
difficult 10:20 20:4	179:12 180:19	drugs 56:7 57:10,11	68:17 73:11 93:14	99:1,2,14,18
23:3 30:9,10 85:6	dispute 148:16	57:14 75:15 106:6	107:13 110:6	100:19,21 101:1,1
89:4 96:9 127:6	154:15 157:6	106:6 107:1,7	111:6 131:11	101:2,11,19 102:7
difficulties 29:18,19	disputes 154:11	108:3 145:4	174:20	102:9,20 103:3,7
29:21 127:3,9	distribution 62:3	Dubois 151:15,17	entered 112:3 188:5	103:20 104:20
difficulty 34:20	172:4	due 50:18 80:1	entering 151:19	105:3,4,20 106:5
dinner 50:15	District 1:2,3 5:6,7	duly 6:17 7:3 186:5	152:2	106:8,10,14,20
direct 39:1 97:5	186:20	Dwight 3:3 6:4 10:9	entire 188:3	107:18,19,20
108:5 136:11	document 4:18	28:14 187:1	entity 146:16	112:4 113:7 114:8
137:21	65:12,15 66:2,6,8	D-E-B-R-E-G-E-...	EP 43:2	114:11,12 115:1,2
directed 175:18	66:8,12,19 67:2,3	160:18	errata 185:7 187:12	119:5,18 120:2,3
direction 25:12	70:9 73:17 90:14	D-U-B-O-I-S	188:1,4,5	120:6,9,12,14,15
96:3,3 186:9	90:19,20 99:7	151:18	Esmieux 20:18,18	121:8,11,13 123:4
directly 17:2 83:12	103:8 108:16	D.C 1:16 2:15 3:8	20:19	123:11 125:7
84:17 107:8,21	109:7,12,16,20	5:11	Esq 3:3,4,12,13	126:14 128:7
108:3,13 116:17	110:3 112:16		Esquire 5:14,17	129:9,11,19 133:2
director 14:2,15	118:20 119:1,6	E	establish 52:6 59:17	140:2,3 142:18,21
15:7 16:12,17	120:12 122:16,17	E 4:1	136:21	143:3 144:16
18:14,21 19:1	123:14,19 124:9	earlier 53:12 56:8	established 48:7	145:2,4,15 146:21
20:9,10,15 21:9	124:12,17,19	66:16 71:1 106:12	66:10	147:1,3,11 148:4
21:18,19,20 22:2	125:5,15,18,20	107:1,6 115:15	Ethypharm 1:6,7	149:2 150:7,15
23:14 39:1,7	126:10,13 130:3	121:6 123:3	5:4,4 6:5 7:14,14	152:12 154:3,10
42:13 74:1 113:3	130:11,13,18,20	127:11 135:7	12:11,16,16,19	154:12 157:18
114:18 133:4,6	131:1 138:21	150:14 158:1	13:2,7,11,12,15	159:2,20 160:3,12
directors 19:4,10	139:6,9,11,12,14	173:10	13:15,16,21 14:1	160:13,14 161:9
directory 18:20	139:15 140:6,9,14	early 40:1,11 41:8	14:9,10,20 15:20	162:7,15 163:1
discuss 10:3 52:9,11	140:18 141:1	41:10 44:20 47:18	16:20 19:9 23:16	166:11,17,18
56:17 62:4 78:2	145:20 146:7	89:3 116:2	23:19 24:15,16,18	169:2,12 170:4,10
118:1 131:19	151:3 162:4,17	easier 30:11	24:18 25:7,8,10	171:9,12,18
132:2 133:20	168:4 170:12,13	educational 133:9	26:8 27:9,10 29:4	172:11 173:3,16
134:9,11,12	175:10,15,17	EDWARDS 3:14	33:14,15,18,18	177:19 181:2

183:15 184:3,17 187:5 188:1 Ethypharm's 10:4 38:10 94:1 103:21 105:17 107:8 108:5 115:16,19 120:7 123:5 136:12 163:15 166:5 European 176:11 everybody 101:8 156:8,13 Evidently 28:2 exact 49:7 exactly 15:17 19:14 20:3,5 25:3 26:21 38:6 39:16 46:2 48:2 52:8 59:4 77:10 87:2,6 93:4 94:16 95:15 100:13,13 104:9 107:17 125:13 127:3 133:10 140:12 148:21 153:21 155:20 157:2 167:4 170:1 172:8 183:20 examination 4:2 7:2 7:5 164:6 178:19 examined 7:4 185:3 example 108:15 exchanged 98:17 102:19 103:3 145:5 excipient 93:13 170:6 excipients 93:11,11 93:19 94:2 170:9 executive 51:6 107:15 165:17 executives 86:5 exhibit 43:6,8,9,13 65:2,4 68:10 108:20,21 118:15 118:16 123:19 124:3 130:3,5 139:1,2,15,16 141:7,15,18 142:1 142:17 143:6,11 143:15 144:9,18 145:1,21 146:1 148:15 162:4,17 165:9 167:21 168:1 170:14 175:5,6 179:10,14 179:19 182:8,17 183:3 exhibition 68:5	EXHIBITS 4:7 expires 186:21 explain 23:4 55:10 explaining 41:19 export 102:18 103:1,2,8,8,9,17 104:6,6,14,18 exportation 103:14 104:13 exported 110:12 111:13,13 exporting 104:11 extent 83:1 132:6 e-mails 76:9 97:8,9 E-S-M-I-E-U-X 20:19 F F 2:13 3:6 5:10 187:1 facilities 70:6 91:8 facility 92:2,6 148:18 fact 16:18 19:19,20 47:11 50:16,18 51:4 53:20 83:15 155:15 factory 13:10,10 32:17 failed 136:4 failures 130:15 fair 13:14 21:1 25:5 28:12 43:17 46:13 77:20 107:9 180:18 fall 49:4 familiar 80:13 far 56:19,20 favor 34:6 feel 23:4 28:5 figures 68:20 69:13 filiale 115:6,12 final 91:17 93:12 173:15,21 finance 20:19 financial 25:17 financially 186:16 find 34:9 35:16 36:1,3,7 187:8 fine 3:4 6:7 7:16 97:21 finish 16:14 48:18 finished 170:10 firm 26:2 first 6:17 24:8 43:21 44:11,12 46:4 51:11,12 55:18 65:9 67:20	68:8,13 84:6 88:15 110:3 114:14 119:14 125:4 129:13 140:8 146:12 169:4,8 177:8 179:21 181:1,1 five 18:10 fix 20:5 172:1 fixed 48:1,6 fluctuation 19:13 fluent 28:15 focus 44:11 45:14 48:13 55:18 59:11 95:5,8 110:2 focused 36:17 47:11 Focusing 179:10 followed 36:21 37:2 following 67:6 68:18 69:20 110:7 148:14 188:4 follows 6:18 7:4 follow-up 61:16 178:18 Fondaych 17:16,17 food 12:2 foregoing 185:3 186:3,5 foreign 10:20 foreman 114:20 form 13:17 31:10 60:12 61:4 81:5 87:15 158:21 160:4,5 173:17 former 126:8 151:15 formula 174:15 formulation 63:8,9 63:10 172:18,19 formulations 172:12 forward 87:7 187:11 Foundation 33:10 60:12 four 16:21 17:11,12 18:10 168:5 fourth 172:16 frame 19:6 France 1:6 5:4 7:15 8:5,9 11:15 12:9 12:11,16 13:15 18:2 24:16 25:9 25:11 27:3 33:14 33:18 45:17 46:15 47:1,2,6 49:11,12 50:6 53:15,21 54:10 56:2 60:2,7	60:10 80:10 82:5 87:5 88:4 98:18 101:1 105:4,21 114:5,12,14,15 115:2 133:12,15 France's 49:20 French 6:13 10:17 22:17 23:4 65:11 67:3,7 68:16,18 69:2,5 70:10 72:18 73:12 93:13 110:7,21 111:1,2 115:10 167:19 frequently 74:5 full 7:18 fun 54:18 function 14:21 15:2 21:20 further 163:18 173:4 178:8,19 184:9 186:13 future 52:4 63:5 64:10 122:3 F-O-N-D-A-Y-C... 17:17 G Gaviolle 86:14,16 98:13,14 Gavoille 98:12 GC 181:7,9,12 general 13:21 14:2 19:11,17 20:15 26:12,14 36:4 55:15 57:6 58:19 58:20 59:3 91:6 101:2 115:4 126:1 128:13,15 135:8 151:15 156:17 163:9 177:2 183:5 183:15 184:4 geographic 17:1 Gerard 21:5,6 22:5 22:7 50:7 53:9 60:20 134:21 160:16 173:18 Germain 8:8,9 19:19,19 20:8 21:4,5,6,6,16 22:7 22:10 34:5 40:17 41:10,15 50:7 51:18 53:9 60:21 61:20 69:19 72:3 73:4,14 114:15 115:4 128:6 135:1 138:11 157:9 159:17 160:15 166:16 167:9	170:21 171:5 179:13 180:18 Germany 18:1 getting 174:16 give 9:18 77:7 93:18 94:1 101:19 101:20 102:9,12 105:4,21 106:5,21 given 22:19 41:15 100:1,4,17 185:5 186:10 giving 38:1 91:10 93:10 168:5 go 8:21 33:13 35:8 59:11 64:20 65:7 68:5 73:21 83:10 94:10 98:2 103:6 147:17 163:20 178:9 184:12 going 9:17 40:10 43:5 46:16 47:5,8 48:16 82:21 85:12 95:7 107:18 108:16 116:7 121:15 130:2 132:4 138:20 147:21 149:21 165:10 181:3 Gonzales 24:11 Gonzalez 24:10 good 7:7 22:16 28:2 41:12 43:16 49:12 61:14 65:14 74:20 74:20 77:18 86:19 117:18 118:11 126:16,17,18 150:11 164:8 goods 107:17,18,21 government 25:19 25:19 33:7 granular 89:17 92:15 granule 75:15 78:15 106:7 granules 70:4 great 41:18 grounds 132:5 group 167:6,7,8 groups 167:2 guarantee 162:21 163:5 Guarou 17:19 guess 23:13 167:21 176:10 guy 41:15 54:20,21 54:21 59:5 guys 47:15 G-A-V-O-I-L-L-E
---	---	--	--	---

Page 194

86:15 G-E-R-M-A-I-N 8:9 G-U-A-R-O-U 17:20	hour 48:16 hours 41:13 Huntington 3:15	interested 45:10 55:14 186:16 internal 128:11,20 132:11 180:12 interpreted 6:18 interpreter 3:19	jack 20:8 James 4:9 42:16,17 January 146:14,17 147:12 Jim 67:8 73:19 122:21 157:19 160:12 174:6 183:16 Joanesse 20:12,14 62:15,16 131:18 131:20 134:1,10 135:6 153:1 Joanesse's 132:18 133:1,8 Joannesse 131:18 JOB 1:21 Joe 6:2 7:11 John 17:18 53:7 167:9 joke 177:2 joking 157:1,1 Jonathan 3:4 6:7 JOSEPH 3:13 July 1:17 2:6 5:11 26:8 79:19 150:8 184:17 188:2 juncture 48:17 J-O-A-N-E-S-S-E 20:15	54:4 55:3,3 56:19 57:5,6 58:12,13 58:13,18 59:4,14 61:5 62:5,7,7,8,10 62:10,11,13,16,19 63:1,2,7 64:18 66:1 68:4,7 71:16 71:17 74:9,18 80:14 85:2,5,11 86:2 87:5,10 88:13 89:13 90:12 90:21 91:6,7,7 92:8,20,21 93:4 93:20 94:3,3,8,8 94:20 95:14,15,16 95:18 96:3,17 98:4,4,21 99:4,8 99:13,17 100:8,9 100:11,11,12,14 101:6,8,13,17,20 102:10,18,19 103:1 104:8,8,9 104:13,15,16,18 105:15,18,18 107:17,17 108:2,4 108:8,8,10 112:13 112:19 116:19 117:1,2,5,5,6,8 120:8 121:20 122:8 125:21 126:16 127:14 128:15 129:13,14 133:3,8,11,13,14 133:16,16,16,19 133:19 134:6,7 135:2 141:3,17,20 142:4,11,14,15,16 142:20,20 143:3,7 143:13 144:15,20 144:21 145:5,11 145:11,15,18 146:20 147:19 148:4,19,19,21 149:3,12,15,17,19 151:12,13 152:17 153:16 154:8 155:7,16 157:2,4 157:14,15,16 159:12,16 160:11 160:19 161:5,7,8 161:11 162:11,12 162:13,13,18,18 162:19 171:16,17 176:1 184:7 knowledge 51:21 52:21 55:4 61:18 66:5 69:17 71:2,5 87:10 92:5,9,13
H half 11:18,19 handed 164:18 happen 41:9 happened 26:5 27:14 87:2,3 96:15 114:3 146:19 157:6 170:16 happening 74:18 hard 8:21 23:7 head 8:20 9:5 13:13 88:4 93:15 Health 12:5 heard 30:14,17 31:4 53:4 79:1 143:20 182:20 held 2:10 5:9 49:10 help 35:9 93:12 137:1 helpful 22:17 hereto 186:16 Herrera 41:4 42:2 42:8 44:21 47:20 48:6 50:9 51:8 53:18 55:20 58:10 58:13 67:8 120:13 122:11,13 125:1 126:13 129:16 130:21 131:2,9 135:4,8,14,19 137:5,8 138:13,16 138:18 139:19 141:6 161:14 162:3,7,16 163:9 166:17 167:8 169:7 174:7,12 181:16 182:3,11 182:15 hesitate 23:10 187:14 higher 59:5 historically 17:16 history 83:11 home 11:9,14 honestly 16:5 25:4 38:4 41:3,6 44:1 44:16,17 45:2 48:3 56:20 67:14 67:17 71:16 73:3 151:1 184:7 hope 118:11	I idea 157:10 identification 43:10 65:5 109:1 118:17 124:4 130:6 139:3 146:2 168:2 175:7 identify 6:10 Ignacio 24:9,12,13 47:16 imagine 108:9,9 important 51:19,21 52:9 59:13,14 63:3 70:1 171:3 173:8 182:6 incorporate 47:3 Incorporated 5:6 increase 64:15,16 indicate 5:19 101:7 indicated 167:14 188:5 indicates 169:12 indicating 90:11,12 indication 165:21 176:2,3 Indomethacin 38:20 industry 20:8,10 50:7 68:10,11 96:3 98:7 99:9 117:7 145:12 148:7 inform 134:19,21 information 89:11 100:4 101:19 105:16 informed 134:16 ingredient 93:1,5 ingredients 38:8 50:21 51:14 91:10 92:19,20 93:12,18 94:1 inquiries 136:5 inside 47:4 64:17 114:6 156:10 instance 17:15 19:17 39:12 55:17 57:21 108:11 116:18 183:12 instructing 132:14 insurance 98:8,11 intended 35:16,21 126:14 interactions 108:5 interest 45:11	introduce 5:18 159:16 introduced 54:5,5 54:13 164:20 investment 63:5,6 investments 64:10 invoice 95:1 170:8 invoiced 51:14 invoices 94:10,19 170:10 invoicing 38:4 90:13 91:12,14,16 involved 15:4 17:2 26:10 36:6 47:9 47:13 75:21 82:3 82:12,14 83:2,3 83:14,15 85:15 86:5 88:11 89:1,8 89:14 96:7 99:19 104:10 114:10,16 122:5,8 147:20 148:5 149:12 151:2,4,10 152:6 152:17 153:3 170:20 180:19 involvement 82:19 84:1 involving 82:7 183:13 issue 173:3 183:14 184:2 issues 63:3 95:13 97:1 173:9 174:13 182:6 Italian 15:16 16:11 Italy 18:3 items 170:2	J	K keep 50:18 65:6 Kemin 12:5 kilometers 11:14 kind 11:20 12:6 29:12 32:10,12 51:3,15 53:10 56:16 85:21 91:20 99:1,6 147:17 149:9 knew 91:5 105:9,10 105:13 106:17,18 170:15 know 7:13 8:15 9:3 9:6,21 12:14 15:3 16:1,4 19:12,18 24:8,14,17,19,20 24:21 25:3,3,4 26:21,21 27:4,18 27:19 28:9 29:13 31:18 32:5,9,19 32:21 33:6 34:1 38:6 40:21 42:8 42:16 43:15 44:1 46:1,1 47:16,21 49:5,7 50:19 51:13,15 52:2,7,8 52:16 53:1,2,14

94:4,7,8,21 96:19 98:1,16 99:12 100:3,10,15 101:21 104:5,17 105:3,20 106:4,20 162:6,14 knows 104:21 105:2 141:8	129:21 131:10,15 131:20 132:3,7,9 133:21 134:4,5,8 134:9,15,17,20 135:4 136:3 137:1 138:14,18 139:13 140:5 141:6,7,15 letters 76:17 let's 14:19 15:1,9 16:21 17:6,21 21:15 22:1,13 33:13 39:10 43:7 48:13 51:18 54:16 55:18 59:11 73:21 74:15 90:11 91:6 94:10 95:5,8 101:15 102:15 134:5 169:4,5 170:12 172:1 level 10:16 26:21 121:16 Lewis 2:12 3:5 5:10 license 103:8 104:6 104:14 151:8 licensed 33:6 36:5 133:14 licensee 172:11 licenses 102:19 103:1 104:19 174:16 licensing 14:14,18 15:2 16:19,19 17:3,10 21:2,21 34:10 36:13 45:15 47:11 74:2 75:21 150:15,18 151:5,8 151:20 152:3 light 47:10,10 line 48:19 84:7 147:6 172:16 176:2 Liorzou 1:15 2:10 4:2 5:3 7:1,7,20 7:21 10:10,12,16 11:3 22:15 30:14 34:16 61:14 64:20 65:16 79:13,18 80:1 118:11,19 120:16 146:12 150:2,7,11 163:17 164:8 169:7 178:17 184:10,16 185:2,10 187:9 188:2,19 list 105:4,21 106:5 listed 121:3 little 10:18 26:2 28:1 44:10 53:3	95:8 101:4 117:18 124:6 127:1 145:9 174:20 live 29:11 LLP 3:14 located 5:10 11:13 31:14,16 46:6 logical 153:2 logically 87:3 logistic 53:19 57:2 114:7 170:5 logistical 84:11,18 169:21 logistics 56:1,16 57:8 83:17 84:2 long 9:17 11:16 24:17,20 28:8 43:4,15 68:4 145:7 look 49:13 63:15 119:13 165:7,10 168:8 169:4,6,10 170:12 175:9 176:11 179:9 looking 64:3 looks 74:20 lot 29:11 41:16 70:8 136:16 lunch 40:20 41:2,5 41:21 44:20 45:4 45:7 47:20 50:14 50:15,16 55:1 70:21 71:10 73:19 117:18 118:12 166:20 167:16 168:19 170:17 173:12,13,20 174:11 L-A-C-O-M-B 17:19 L-E-D-U-C 160:17 L-I-O-R-Z-O-U 8:1	mails 76:12 main 128:1 maker 114:14 making 22:15 76:12 173:21 manage 128:16,21 manager 12:9 14:12,14,18 15:2 19:11,17 21:3 26:12,14 34:3 58:19,20 114:18 115:4 135:8 148:6 148:7 151:15 163:10 177:2 183:5,15 184:4 managing 42:13 82:13 manufacture 32:18 56:17 57:9 58:2 60:7 61:21 70:4 78:10,14,20 80:19 82:6,7,20 85:14 87:12 89:10,16,21 90:7 91:3 92:6,14 93:12 98:19 100:16 101:20 102:21 103:11 121:9,14 123:6,12 124:13 126:15 127:21 128:16,21 129:12 142:2,12 143:17 144:1,10 144:19 145:17 152:9,19 154:4 163:2 172:3 manufactured 36:18 38:9 56:11 57:11 72:12 92:2 104:3 105:11 113:6 142:8 manufacturer 34:12 36:20 81:10 93:8 105:12 108:14 manufacturing 4:12 14:13 36:10 36:18 38:2 59:20 60:1,5 76:3 81:9 86:1 91:13,18 94:12,15 95:2 96:2 99:3,5,15 110:13,14,16 111:14 112:4 113:15,18 114:1 114:17 119:11 126:8 128:8 147:8 147:18 148:6 149:15 153:13	170:6,9 Marcelli 98:12 March 64:21 65:20 66:15 70:14,16 73:2 142:6,7,9,12 158:3 161:3 mark 43:6,7 65:2 108:19 118:14 130:3 145:20 marked 43:2,9 65:4 108:21 118:16 123:19 124:3 130:5 138:21 139:2,15,16 141:7 141:15,18,21 142:17 143:6,11 143:15 144:9,18 145:1 146:1 148:15 162:4,17 168:1 175:7 176:18,19 179:10 179:16 market 32:17,20 33:8,12 47:12 80:15 83:18 103:12 materials 103:2 matter 5:4 35:1,3,4 79:18 82:5 99:8 136:6 150:7 184:16 188:3 matters 84:11 169:20 171:3 182:5,16 Maximum 19:21 mean 30:5 37:2,4 44:7 49:20 54:10 54:18 57:19 58:5 59:2 64:11 68:9 68:10 73:13 86:7 97:7,10,17 98:12 101:5 102:5,13 103:10 106:9 112:14 121:20 127:10 129:3 134:12 147:19 148:3 179:15 181:19 means 96:20 136:14 measure 28:10 mediation 34:5 medicine 93:13 meet 45:20 68:6 159:3 meeting 4:10 40:10 40:12,18 41:17 44:6,11,19,20 45:1,4,5,7,10 46:5
--	---	--	--	--

Page 196

47:18 48:1,6,11 48:14 49:9,10 50:2,4,14 51:4 55:2,6 61:16 63:19 64:21 65:7 65:20 66:15 67:15 70:16,19,21 71:9 71:11,20 73:2 77:16 138:5 158:2 158:3 159:20 161:3,6 167:15 168:14,19 169:6 170:16,18 176:6 178:21 179:2 180:13 182:8 meetings 39:9,10 49:12 68:10 158:6 167:12,16 173:13 173:13 member 21:17 memo 63:16 64:2,6 77:11,11 167:15 memoranda 76:17 memorandum 180:12 memory 37:17 77:9 83:11 141:4 158:12,15,18,19 158:20 159:5 169:16 memos 4:17 52:3 63:15 168:13 mention 18:6 mentioned 7:10 16:9 17:10 23:13 35:14 36:17 42:5 44:21 46:13 47:16 53:11 54:12 55:19 55:21 56:8 57:11 59:12 61:18 64:9 74:3 80:18 92:18 94:11 96:11 99:12 103:19 106:11,13 107:1,6 115:15 123:4 127:11 135:7 150:14 166:15 180:7,14 182:7 mentions 136:7 180:16 181:2 met 39:12,15 41:4 41:18 44:2,4 47:18 54:17 67:13 67:20,21 68:3,6,8 158:10,13 159:5 160:20 161:6,9,12 161:18 162:2 163:10 164:14,16	166:10 micro 70:4 75:15 78:15 89:17 92:15 106:7 mind 8:2 64:2 65:1 65:7,12 67:6 68:18 72:2 83:7 87:20 109:3 110:6 111:1,5 116:13 120:16 132:19 179:9 Ming 7:11 Mingolla 3:13 6:2 118:3 178:9 Minimum 24:5 minute 59:12 65:1 102:15 118:1 178:10 183:4 minutes 48:17 77:12 164:10 mischaracterizati... 85:18 Mischaracterizes 166:8 misspellings 70:9 mistake 27:20 88:7 88:7,14 Mixing 29:13 modify 45:13 moment 77:6 163:21 money 26:2 41:16 month 39:20 monthly 74:13 morning 7:7 61:14 Morocco 103:14,19 mother 54:3,9 move 46:14 47:5 83:14 Murphy 4:9 41:4 41:21 42:6,16,17 44:4,15 50:9 51:17 52:17,18,20 54:4,4,13 61:20 67:9,13,19,20 73:19 89:7,12 122:21 135:18 141:14 144:8,17 157:19 158:5,10 158:13,16 159:1,2 159:11,13 160:12 160:20 161:6,9,13 161:18 162:2,6,14 162:20 163:4 164:13,15,17 165:13,16 166:4 166:15 167:9 171:4 174:6,9	177:4 178:2 179:1 179:13 180:3,17 182:7,10,14,17,20 183:7,16 Murphy's 171:10 172:10 173:5 <hr/> N <hr/> N 4:1,1 name 5:13 6:4,12 7:10,18,20 12:3 18:20 24:8 25:8 33:3 80:13 88:18 110:12 111:13 119:20 122:17,19 151:17 188:5 named 11:15 names 17:11 18:11 24:7 30:7 105:21 106:5,21 Nathalie 18:9 84:6 84:13 85:3,8 88:2 88:6,8 95:5,9 96:21 98:1,8 nature 82:18 113:12 necessary 104:5 121:19 necessity 62:2 need 9:20 23:9 91:11 101:7 103:7 104:14 151:16 needed 177:17 178:1 183:16 184:5 negotiate 181:17 182:5,5,11,15 negotiated 87:12 negotiating 85:16 negotiation 122:5,9 151:10 152:6 153:3 negotiations 82:4 82:19 86:5 88:12 89:14 neither 123:1 186:11 never 39:11 58:13 58:15 98:5,6 Neves 18:9,9 84:6 84:13 88:3,6,8 95:9 116:18 new 34:9 35:16 36:7 41:20 59:17 59:19 61:21 62:3 63:8,9 64:16 115:3 156:1 newspaper 155:20	nice 10:12 118:12 Nigeria 103:14,19 136:7 Nigerian 113:11 nil 29:13 nod 8:20 nodding 9:5 93:15 normal 169:1 Northwest 5:10 Notary 2:21 6:17 7:3 186:1,19 note 155:14 169:6 179:19 noted 188:4 notes 76:12 168:18 notice 2:20 November 49:6 63:20 77:15,15 124:18 168:17 173:20 174:11 179:1 number 5:2,8 79:13 79:17 150:2,6 164:11 176:18,19 NW 3:6 187:1 N-E-V-E-S 18:10 N.W 2:13 <hr/> O <hr/> O 4:1 oath 9:7 object 17:13 46:16 82:21 87:15 107:4 112:5 116:8 121:15 132:4,10 154:14 objection 13:17 19:5 31:9,15 33:9 33:19 34:17 35:18 60:11,18 61:4 78:8 80:21 81:4 85:17 90:3,9 91:4 100:7 113:8 122:2 126:3 137:15 162:9 165:15 166:7 171:14 172:13,21 173:17 174:2,8 177:20 179:4 obligation 163:6 obligations 163:1 obvious 75:19 obviously 10:20 occasions 161:12,17 162:1 occur 99:18 112:12 October 138:3 176:7,7,14	office 11:10,11,13 13:13 46:7,9,10 47:8,10,10 49:15 49:19,20 71:10 166:5 officer 165:17 186:2 offices 5:9 13:2,7 160:8 officialized 137:9 137:12 Oh 11:14 30:13 45:18 109:13 125:10 131:3 okay 8:19 14:21 21:1 23:11 25:5 27:12,15 28:16,21 31:2,3,18 32:1 35:12 36:11,16 38:17,17 42:1,2 47:11 48:21 49:16 55:9 62:10 63:1 65:13 69:7 78:11 89:6 94:13 96:5,6 104:2 108:17 109:4 110:9,10 111:20 112:21 113:1 118:13 121:2 124:8 130:10 132:10 139:8 146:20 149:8 157:16 162:12 169:8 175:13 176:17 178:1 180:5 181:16 Omeprazole 33:2,4 33:4,8 38:12 56:7 56:13,18 57:10,21 58:3 59:20 60:1 62:1 63:10 68:20 69:15 70:5 72:10 75:8 76:3 78:10 78:20 80:7,20 81:10,17,21 82:20 85:15 87:12 89:10 89:21 90:7 91:3 91:18 92:3,6,10 94:12 95:2 98:20 99:15 100:17 102:21 103:2,9 104:2,4 105:6 106:2 107:2 113:6 113:19 114:1 115:16,20 116:4 121:5,9,14 123:6 123:12 124:14 126:15 127:21
--	--	---	--	--

128:9,16 129:1,6 129:12 142:2,13 142:19 143:1,5,12 143:17 144:1,11 144:19 145:3,17 150:19 151:9,21 152:9,19 153:13 153:20 154:5,13 154:20 157:19 163:2,6 170:6 172:4,12,19 once 39:15 74:19,19 ones 153:8 operate 45:16,17 operation 45:19 opinion 54:8,17 68:12 73:4 86:20 128:1 opportunity 45:20 opposing 187:12 option 10:18 oral 90:8 order 54:1 orders 37:18 84:2,3 142:18 143:4 ordinary 169:1 organic 172:19 organigramme 177:1,9,11 178:1 183:5 organization 21:17 50:17,20 organizational 177:13,14 183:13 184:1 organize 51:8 54:1 83:17 138:5 organized 22:1 83:12 112:17 original 66:9 187:9 187:12 188:6 Oudeus 13:10 Oury 20:16,17 outcome 186:17 outside 103:3,9 104:20 117:10,16 135:12 overall 85:13 136:5 174:15 overbooked 41:11 overt 83:6 owner 149:3 ownership 154:19 O'Toole 3:20 5:13 O-U-R-Y 20:17 <hr/> P P 3:3,13	package 25:21 26:1 page 4:2,18 119:14 120:17,19 131:6 169:5 170:13 176:4 179:11,21 180:6,16 181:1 182:16 187:9,12 pages 65:9 168:5,8 168:16 185:3 PAGE/LINE 188:7 Paissy 11:15 PALMER 3:14 pan 149:7,9,13,18 pans 149:4,5,6 papers 90:10,12 paragraph 68:15 70:12,19 71:14,19 110:3,9 111:17 136:2,6 138:1 176:18,19 183:4 paragraphs 97:20 parent 67:9 parentheses 181:6 Paris 40:5 44:4 part 17:4 18:13,14 18:19 27:8 35:15 46:4,5,14 51:7 71:5 99:16 115:5 119:15,15 144:21 170:17 176:10 179:11 184:5 particular 21:17 36:1 particularly 9:13 parties 5:19 58:6 108:7 110:13 186:12,15 partly 174:4 parts 67:1 party 57:16 110:14 110:16 111:15 112:3 Paseal 20:16,17 patent 133:17,18 Patrice 160:16,17 pause 9:18 22:20 pauses 9:16 PB 71:21 72:7 pellet 75:15 78:14 89:16 92:14 106:6 145:4 153:5 163:7 pellets 75:21 people 14:11 15:21 16:3,7,21 17:9,11 17:12 18:8 21:11 26:1,18,19 27:1,7 28:19 39:12 40:14 40:20 41:1,5 44:2	47:7,8 50:5 68:6 84:5 85:4,8,19,21 86:1,8,10 88:11 95:12 98:7 100:2 100:4 102:5 103:18 106:7 107:2 114:7,16,18 117:3,8 134:17 170:19 174:17 percent 68:19 69:7 69:12 perform 170:5 period 19:12,13,18 20:9 24:19 34:1,2 34:3 39:10 87:5 89:2 91:6 95:15 95:21 96:4,12 97:13 100:12 108:6 140:11 periods 96:14 person 9:11 24:5 61:1 88:3,14 personal 126:9 personally 137:16 183:14 persons 87:11 120:11 137:13 pertaining 56:6 82:20 98:18 PG 68:19 69:9,18 71:21 72:3 pharmaceutical 32:16 68:11 Pharmaceuticals 1:10 5:5 6:1,3 7:12 30:15,21 180:7,14 pharmacy 80:15 Pharmalliance 113:11,13,21 116:21 127:11,12 136:7 Pharmalliance's 116:2 117:12 Philippe 17:18 20:9 20:11 40:17 41:11 72:8 114:17 148:8 160:15,19 phone 76:14 Pierre 19:19,19 20:8 21:4,4,5,6,16 22:6 34:5 40:17 41:10,14 50:7 51:18 53:9 60:20 61:20 69:19 72:3 73:4,14 88:16,19 88:19 95:9,19 96:21 98:2,8	114:15 128:6 135:1 138:11 160:15 167:9 place 122:16 143:4 147:2 placed 142:18 plaintiffs 1:8 3:2 6:6 7:14 164:6 plan 25:9,12 26:11 26:17 27:8 plane 41:8,10 plans 65:21 plant 173:5 play 12:7 42:12 playing 37:5 please 5:18 6:10,15 6:20 8:16 9:3 10:3 22:20 34:20 69:3 108:19 117:14 119:15 120:10 124:6,16 130:3,17 131:6 139:5 145:20 146:4 156:19 187:8,11,14 pocket 43:14 165:5 point 9:2 10:6 12:18 34:16 55:16 64:6 86:21 117:19 122:15 poorer 28:16,16 Portuguese 29:10 29:14 47:12 position 21:2 22:2 44:15 73:14 135:12 177:11 possibilities 93:9 possibility 108:3 possible 30:10 61:21 96:4 111:19 111:20 147:16 potential 63:2 potentially 172:6 powder 70:5 power 161:19 174:13 181:17 182:4,11,15 Practically 69:12 69:14 practice 133:15 precise 22:5 116:9 141:4 precisely 26:6 46:18 77:5 128:11 156:16 prefer 144:5 155:13 156:18 183:20 prepared 66:1	167:15 168:21 Present 3:19 president 14:16 15:7 16:12,17 18:18 19:8 21:12 23:15 67:9 74:2 177:4 182:21 183:7 presume 83:2 presuming 103:18 previous 47:21 price 90:13 91:17 prices 90:11 pricing 90:12,16,20 primary 23:18 print 71:20 prior 136:6 privilege 132:5,13 probably 43:5 problem 29:16,17 96:5,8,16 108:10 113:14 128:2 136:18 148:21 problems 45:21 50:17 53:19 55:12 55:14,15 57:2 64:13 83:19,20 84:18 113:9,10,12 113:21 114:5 116:3,6,20 127:15 127:20 136:16 148:20 procedure 10:21 187:13 proceeding 184:19 proceedings 6:18 process 25:9 99:6 104:11,18 product 16:20 33:1 33:2,11 36:1,4 38:13 58:1,2 60:2 75:21 81:13 106:9 142:8 156:1 170:10 production 64:3 products 17:7 32:17,18,19 34:12 36:21 37:20,21 38:3,10,11,19 81:11 105:11,12 106:14 143:1 proper 99:9 property 155:16 proposal 169:13,13 propose 170:8 provide 173:3 provided 94:6 172:20
---	---	--	---	--

Page 198

public 2:21 6:18 154:12,18 155:12 156:6,15 157:6,13 186:1,19 publication 155:7 published 155:3 purpose 45:3,13 46:2,14,20 48:2 50:13 148:1,13 153:21 purposes 121:19 Pursuant 2:20 put 10:11 90:7 putting 13:5 P-H-I-L-I-P-P-E 20:11 p.m 184:20	R R 4:9 read 29:14 30:2,6 30:11 66:11 67:5 68:16 71:15 72:19 73:11 80:3,4 83:9 88:1 110:5,20 116:15 120:10,20 145:8,10 174:21 177:16 185:3 188:3,4 reading 29:21 83:8 87:20 111:5 116:13 119:20 187:10 reads 72:9 138:3 real 14:20 21:20 47:2 95:14 126:20 realistic 55:12 realized 69:21 really 29:10,15,17 45:10,18 48:12 53:17,18 54:2 57:1 67:15 68:7 73:3,3 80:12 104:16 112:20 117:5 140:10 148:3,13 155:9,10 155:14 159:8 reason 67:18 101:3 101:5,7,12,18 102:9 109:10 112:2 117:9 188:7 reasons 25:18 188:5 recall 14:17 24:7 27:7 38:11 39:14 40:11 44:19 45:1 45:3 47:17,19 49:2,3 50:1,13,15 57:3,8 60:16 63:12 71:13 73:1 74:5,21 75:5,8,11 75:14 78:18 79:5 81:2 84:16 85:7,9 85:12,15 86:4 88:10,21 89:7,19 90:5,19 91:1 92:1 94:18 96:13 106:12 109:5 112:6 113:5,20 116:4 121:6 123:3 129:18,20 131:14 137:11,12,18 140:4,17,21 143:9 143:15 144:7 146:7,16 147:12 150:18 151:19 152:2 156:17	157:5 158:1,6 159:19 160:2 166:20 181:13 receipt 187:11 receive 25:20 26:2 83:18 177:3 183:6 received 109:11,13 109:14 155:6,8,14 155:19 receiving 37:18 84:2 140:4 recess 61:10 79:15 118:7 150:4 164:3 178:14 recharacterization 46:17 116:8 recognize 168:9,11 175:14 recollection 20:7 66:13 67:12 70:13 70:18 73:17 80:9 111:18 124:10 136:10 reconvene 117:19 record 5:1 6:11 7:19 8:4 9:11 10:12 48:10 57:8 61:9,11 67:6 68:17 69:4 71:8 79:14,16 80:4 83:9 88:1 102:4 110:6 111:7,11 116:15 118:3,6,8 145:10 150:3,5 163:20 164:2,4 174:21 178:10,13 178:15 184:14,18 186:10 188:5 recording 9:1 recuperate 46:18 46:20 82:13 reduced 186:8 refer 30:21 32:1 43:5 64:12 170:4 176:17 referred 66:18 69:18 86:8,10 138:10 169:20 referring 52:13 99:18 172:16 173:9 176:6 refers 70:19,21 136:6 146:21 reflexes 23:6 refresh 66:12 67:12 70:12 73:17 111:17 124:9 136:9 169:16	regard 77:15 153:5 163:1 regarding 94:12 95:12 100:16 144:10,18 145:3 150:19 154:4,12 154:18 167:15 187:10 register 90:2 registered 36:6 relate 112:13 121:19 171:21 172:3 related 31:19 186:11 relating 171:8 174:14 177:18 relations 113:4 relationship 33:17 34:11 36:10 52:5 52:12,14 53:12 54:7 56:1 78:3,5 78:12,19 80:11,17 81:3,7,8,9,14 82:6 85:13,16,21 86:19 89:15,20 90:6 97:17,18 99:16 102:20 105:7 108:7 121:7 123:5 123:11 127:20 152:8 171:8 172:2 172:7 174:15 177:19 relationships 145:2 relative 186:14 remember 16:1,21 17:12 18:8,11 20:1,18,20 21:3,9 24:14 25:1 26:4 27:15,17,18 33:3 33:5 38:5,6,14 39:16,17,19 40:1 40:15,16 41:3,7,7 41:9 42:1,2,4 43:17,20 46:3,11 48:2,3,4,10 49:17 49:17 53:6 56:20 59:16 67:15,17 74:12 76:5,16 77:10 80:12,15 84:10,13 87:1 91:15 93:1 97:19 109:8,9 111:21 112:11,12,16 113:9,10 116:12 119:7 123:14 125:4,13,14,17,19 127:14 128:13	138:8,15,18 140:8 140:11,19,20 141:2 142:14 144:4,4,6 146:9 146:10,18 147:14 148:13,21 149:2,3 149:14 152:15,15 152:16 153:9,10 153:15,21 154:1,2 155:2,4,9,11,20 156:4,12,14 157:8 157:11,17,20 160:6 167:12 170:20 183:19,20 183:21 184:8 removal 148:17 repeat 21:13 79:10 101:10 117:13 174:18,19 repeated 136:4 repeatedly 138:5 reported 1:20 21:3 21:9 22:11,12 reporter 5:16 6:15 6:20 8:17 80:3 101:9 128:18 Reporter/Notary 187:20 reporting 22:3,5,7 represent 5:20 6:1 7:12 119:10 165:8 representative 179:2 representatives 138:4,9 represented 7:15 68:19 69:10 representing 5:13 5:16 6:2,5 120:11 request 80:2 188:4 requested 80:4 83:9 88:1 116:15 145:10 174:21 requesting 10:14 research 20:16 residence 8:5 residential 8:3 respect 152:8 respond 8:17 136:4 138:13 141:5,14 responded 139:18 response 103:16 129:20 139:15,20 140:5 responsibile 16:10 responsibilities 12:6 16:16,18 18:17 169:1
---	---	---	--	--

responsible 23:15 42:14,15 54:21 58:21 59:1,2,8 86:17 133:3 187:10 restaurant 49:11,14 50:14 51:17 results 108:12 retirement 25:21 Reversal 94:14 review 8:13 43:12 65:12 118:20 120:18,21 124:7 130:9 139:6 146:4 175:11 reviewing 109:3 right 23:2,2 24:11 67:11 149:20 Rimafar 79:2,3,5 Robereau 8:6,7 Robinson 2:12 3:5 5:9 Roger 8:6,6 role 18:7,12 21:8,12 23:14 33:13 37:5 37:8,8,12 38:21 42:11 73:21 74:2 113:3 131:12 roles 12:7 Rosaline 131:16,17 131:18 137:2 153:1 Roseline 20:12 Rue 8:6 rule 36:13 rules 41:20 93:2 104:9 rumors 129:13 running 59:8 Russo 1:20 2:20 5:16 186:2 187:19 R-O-B-E-R-E-A-U 8:8 R-O-G-E-R 8:7 R-O-S-E-L-I-N-E 20:13	saying 101:11 112:15 138:17 155:18 says 67:2,8 68:15 69:3 70:7 71:19 110:11 119:14 120:17 136:3 146:11 147:5,8 177:1 181:4,7 183:5 scandal 41:14 second 40:5 44:3,4 44:8 79:11 159:5 159:6,10 176:3 see 14:19 58:5 67:2 70:7 103:12 108:17 119:4 122:17 136:3 137:2 140:13 146:11 147:5,10 148:3 153:11 176:1,3,20 177:6 179:21 181:4,6,14 seeing 43:17 126:12 129:18 146:7 154:2 157:17 seen 9:14 64:2 65:15 66:7,7,8 90:10,15,16 108:17 109:7 119:1,6,7 122:19 123:9,13 124:10 125:11 130:11 139:6,9 153:17 154:7 175:16 send 95:1 131:9 134:3 135:3 139:20 171:18 181:3 sending 134:3,5 sense 48:16 99:9 127:7 sent 14:1 62:9,13 76:16 94:18 107:21 109:20 130:20,21 131:1 134:1,2,8,17,19 137:13,16,18,19 139:21,21 141:6 145:16 155:7 sentence 69:21 72:9 110:8,21 111:6,11 136:9 138:1,10 146:12 177:16 181:2 sentences 145:9 separation 107:16 service 17:6,8,9	18:7,13 37:5,9,12 45:16 46:21 47:1 47:2,4,6,14 50:19 82:13,14 83:16 87:4 88:4,15,16 89:1 91:9 95:7,12 95:21 97:1 98:9 114:4,11 115:1,5 115:6 136:15,16 136:18 138:4,9 143:9 services 5:14,17 114:13 set 55:1,5 seven 17:8 84:5 severance 25:21 26:11 severed 25:13 sheet 185:7 187:12 188:1,4,6 ship 104:19 107:7 shipments 116:3 shipping 108:3 shock 68:21 69:15 short 14:16,16 61:10 79:15 118:7 145:9 150:4 164:3 178:14 shorthand 186:7 show 68:5 77:6 108:16 123:18 130:2 138:20 145:19 156:13 167:20 175:4 showed 125:14 shows 177:21 side 40:16 86:2 88:10 174:1 sign 111:14 signature 131:7 151:2,6 187:9,12 188:18 signatures 151:10 signed 62:6,8,12,20 62:21 110:12 121:18 122:13 124:21 129:16 131:12,20 162:17 185:7 187:12 188:5 signing 154:1 162:3 187:10 simple 51:2 simply 132:6 situation 95:19 126:17,18 127:5 six 17:8 84:5 skills 28:1	SLR 5:8 small 47:10 80:13 social 25:9,11 26:17 27:8 society 25:13 sold 38:10 Solegue 17:20 Solutions 4:11 solve 55:14 somebody 117:16 138:16,17,19 sorry 13:4 38:15 66:3 76:18 87:19 88:5,5,6,7,14 89:5 94:13 95:6,18 96:9 105:1 109:19 113:19 115:14 116:11 117:4 118:4 129:14 137:6 139:8 140:3 143:2 168:17 174:18 181:11,12 181:15 sort 103:7 104:6 149:6 Spain 1:7 5:5 7:14 12:16 18:4 23:16 23:19 24:15,18,19 27:9,10,13,15 29:17,17 31:16 32:6,15,20 33:3 33:16,18 34:8 35:14 36:5,6,14 36:17,19 37:1,3,4 37:7,11 44:15 45:6,8,11,14,15 45:17 46:10,19 47:6,8,10,14 50:8 50:19 51:1 53:15 53:21 56:2,18 57:12,15 59:9 60:6,10 62:1 72:12,16 78:6,13 78:19 80:10,15,18 82:4 83:13,13 85:13 87:4,13 89:9,15 90:6 91:8 91:10 92:18 95:2 97:18 98:18 99:2 99:18 100:5 101:1 102:20 103:3,9 104:3,15,19,20 105:4,19,21 106:8 114:4,7,8,11 115:2,17 117:11 120:14 121:8,8 123:5,11 129:6 131:4,5 140:3	142:2,13,19 144:19 145:3 146:17,21 147:1,3 147:11 151:9 154:20 157:19 158:2 160:15 161:2 163:2 166:19 170:7 177:2 183:1 Spain's 71:10 78:3 Spanish 15:16 16:11 29:8,9,10 29:13,14,16 30:1 30:3,12 33:7,12 35:15 47:3,11 51:1 65:10 66:4,9 66:11 74:4,6 75:1 75:6,9,12,18,20 76:6,20 77:1,3 80:6 85:4,7 103:12 120:7 173:4 speak 9:11 10:12 22:17 28:9 29:4,8 29:9,10,10,12,15 54:19 135:15,19 148:1 155:17 161:19 speaking 28:6 52:18,20 76:1 77:11 100:14 117:7 122:2 Speaks 126:3 specialist 5:15 specific 96:14 137:13 specifically 33:15 specifics 132:6,9 speed 29:2 spell 7:18 88:17 151:17 spelling 8:3 spend 159:10 spent 13:9,11 14:6 77:12 split 167:2 spoke 51:12 52:4 63:8,13 64:10 74:21 147:15 158:16 159:12 161:14 spoken 62:2 63:4,5 63:11 St 8:8,8 13:12,13 40:5,7,8 44:6 48:14 49:10,13 61:16 158:4 159:10 166:5
---	---	--	--	---

Page 200

168:14 178:21 180:13 182:7 stands 83:5 181:9 181:21 start 97:16 110:8 started 14:10,11,14 25:2 65:21 78:20 83:14,19 85:5 89:21 starts 68:16 111:2 state 7:17 34:6 statement 35:17 54:15 56:4 155:12 156:15 157:6,13 statements 154:13 154:18 156:6 states 1:2 5:6 7:9 31:1 92:7,11,16 93:19 94:2 100:18 102:6,13 106:2 107:3 135:16,20 142:5 145:17 151:21 160:8,9 161:10 165:3 184:6 stating 8:3 stay 19:20 stayed 14:2 stop 87:3 170:5 stopped 70:3 storage 107:20 Street 2:13 3:6 5:10 187:1 stressing 35:6 strike 110:15 structure 36:7 45:14 88:2 105:19 107:12,15,20 112:17,18,20 subject 52:10 59:17 71:14 73:2 154:16 176:2 177:3 subjects 51:19,21 55:11 59:13,15 subsequent 65:11 subsidiaries 12:12 15:11 16:11,16 115:14 subsidiary 13:16 15:9 31:20 34:8,9 35:15 74:4,6 75:1 75:6,9,12,18,20 76:6,21 77:2,4 120:7 success 138:6 suggest 114:2 Suite 2:14 3:7 187:2 summarizes 179:12	summary 4:10 53:10 65:19 supervised 33:15 74:3 supervising 16:15 23:16 supplement 12:2 supplied 17:7 50:21 57:1 supply 38:8 51:13 142:21 supplying 129:4 suppose 105:1 supposed 75:20 sure 9:8 10:13 15:17 16:5 20:6 21:14 22:13,18 25:14,16 29:3 38:20 41:5 42:1,5 42:7 44:4 63:14 63:14 66:11 67:16 80:8 93:4 95:20 96:10 97:4 98:8 98:10 99:11 107:12,14,16 109:14 112:12,13 112:18 117:8 123:17 125:10 126:20 128:10 137:16 141:2 143:2 145:6 152:15 169:5 178:11 surprise 126:20,21 surprised 119:8 127:8 surprising 119:8 swear 6:15 swearing 6:21 sworn 6:17 7:3 9:7 186:6 Sylire 17:16 S.A 1:6,7 5:4,5 119:18 120:6,11 120:12 121:8,13 S.R 119:17 120:15 T T 4:1,1 table 51:11,12,16 53:5,16,17 54:1 55:18,19,21 56:17 58:9 59:11 61:2 61:19 63:1 159:15 169:14,20 170:3 170:17 171:4,10 172:10 173:6 174:12,17 179:12	180:4,17 182:7,18 tables 50:17 51:4 54:18 take 8:18 9:10 10:1 30:6 48:19 61:6 95:20 103:13 117:17 118:19 124:1,6 130:8 139:5 146:4 164:10 165:7,10 168:7 169:10 175:9 taken 5:3 61:10 79:15 118:7 150:4 159:17 164:3 178:14 186:3,7,13 188:3 takes 30:2 talk 39:4 44:10 164:15 talked 96:12 134:14 157:12 169:17 talking 121:21 159:11 tape 5:2 77:21 79:6 79:11,12,17 80:1 150:1,6 184:15 tapes 149:21 tea 77:19 team 15:8 16:20 17:10 18:7 84:4,6 teams 159:7 technical 85:19 99:5,8,9,13,14 100:1,4,15 102:10 104:13 technology 75:16 78:15 106:7 154:19 156:1 telephone 76:7,8 96:20 97:4,4 158:17 tell 29:1 34:21 42:19 53:2,17 58:10 61:1 62:3 74:10,17 91:5 96:18 100:12 109:15 112:11 119:13,16 124:16 124:19 126:1,12 127:3 128:12 129:9 130:17 135:11,14,18 147:18 149:16 154:6,7 155:10,13 156:8,12,18,19 159:3 161:13,18 162:2,7,15,20	163:4 165:11 166:13 167:5 175:12 177:8,15 177:16 179:1 180:6,11 181:9,16 182:3,10,14 183:17 telling 28:14 123:14 136:14 155:21 tenure 24:16 39:6 44:14 74:7 78:4 78:16 81:20 82:9 97:14 106:8 113:6 145:4 152:11 159:1,2 term 177:10 terminate 123:15 129:10 terminating 123:10 124:13 termination 128:8 141:19,21 142:17 143:5,10,14 144:2 144:9,17 148:14 terms 63:6 91:2 118:2 126:2 133:18 156:17 testified 7:4 83:3,5 158:2 testimony 10:3 46:17 56:4 79:17 83:5 107:9 116:8 150:6 158:7 163:13 166:3,8 171:2 173:10 184:16 185:4,5 186:4,6,10 Texier 3:19 6:13,16 Thank 6:9 7:7 8:2 28:3,21 32:5 96:10 123:2 163:17,19 184:10 184:11 187:15 thing 9:21 23:3 51:15 99:6 159:4 things 15:10 22:1 99:9,10,18 104:11 104:13,21 105:2 127:5 137:3 147:20 164:13 think 9:17 16:4,8 17:15 19:20 20:12 20:19 27:5,5 29:7 35:7 38:19,20 40:9 42:13,17 48:7 49:6 52:15 52:16,18 55:10,11 55:13,15 57:5	58:12 63:5,10,12 64:12,13 66:9,11 71:2,5 77:20 79:6 82:2 83:3,4 89:4 91:15 93:3,5,9,10 95:20 97:2,13 98:21 99:3,21 105:9 107:10,11 107:21 114:15 116:9 125:6 127:12,18 133:17 135:5,5 136:15 142:21 148:8 149:5,15,20 150:21,21 153:14 153:14,16 154:7 155:15,16 157:14 163:11 164:9 172:1 177:9 179:15 183:18 thinking 103:14 third 57:16 58:5 68:15 110:8,13,14 110:16,21 111:15 112:3 136:2 176:19 thought 107:7 three 13:11 14:3,5 19:20,21 20:1 38:13 39:13 53:20 95:17 174:11 time 8:21 9:12,20 13:9 14:20 15:21 16:7 19:5 21:4,21 22:14 26:12,17 28:11 30:2 36:8 36:10,15,16 39:6 40:5 41:19 43:21 44:3,4,8,13,13 45:21 47:13 52:1 52:3 61:8,12 64:14 65:12 67:20 68:4,8,13 76:10 79:7,13,19 82:9 82:10 83:16,19 86:17 88:5,5,9 96:15 97:2,3,10 108:6 114:20 118:5,9,20 124:7 125:5,9 127:6,15 128:19 130:8 135:1 136:14,20 138:12 139:5 146:4 148:7 150:2 150:8 151:2 152:11,21 153:1 155:6 158:13,16 159:6,6,9,10,19
--	--	---	---	--

160:2,13 164:1,5 166:13 168:19 169:17 173:13,19 174:10 178:12,16 184:13,18 times 24:20 39:13 74:16,20 95:17 158:9 tin 29:12 tired 10:18 28:15 title 120:6 133:1 titles 14:9 today 7:10 8:16 9:13 10:3 29:5 121:6 123:3 158:1 163:14 today's 32:2 told 44:1 45:9 50:21 52:2,10 53:5 56:14 60:16 63:12 63:14 75:19 77:18 84:4,19 90:1 98:6 112:11 114:3 116:17 127:2,4 136:18 147:14 155:4,11 157:2 159:4,6 177:2 183:6,15 184:3 tools 63:6 64:10,16 top 168:15 176:2 topic 61:2 topics 167:11 172:17 totally 25:21 touch 95:11 tough 41:15 town 11:15 trade 33:3 trademark 38:15 transcript 187:10 188:3,7 transcription 185:5 186:8 transfer 76:3 87:4 114:4,10 115:1 transition 96:1 translate 9:15,18 10:15 22:20 23:10 111:6,9,11 115:10 184:4 translated 168:6 translating 111:1 translation 15:14 22:14 73:6 102:16 145:7 148:2 translations 123:20 124:1 translator 10:15	101:16 transmit 177:21 transmitted 140:16 travel 29:11 160:7 traveled 166:4 tricky 9:13 tried 138:5 181:14 true 157:3 185:4 186:9 try 30:7 45:13 96:9 trying 181:11 tubes 149:5 turn 131:6 136:1 169:6 183:3 turning 120:16 twice 74:19 two 11:18 16:18 19:20,21 20:1,20 24:4,5 38:13,18 39:12 41:13 47:15 50:16 51:4 52:5 52:12,13 53:12 54:17 55:11 59:18 65:9,11 95:17 106:16 114:18 119:20 158:9 159:7 161:12,17 162:1 167:2 168:5 168:8,13,16,18 172:2 two-page 168:4 T.J 3:20 5:13 U uhm 49:13 Uh-huh 72:1,11 82:17 110:4 111:4 135:10 146:6 169:9 173:14 177:7 179:20 181:5 UK 18:2 ultimate 173:15,21 unclear 9:3 understand 9:8 22:19 25:15 28:17 28:20 30:8 31:12 32:4 34:18,19 103:5 122:18 143:18 150:20 152:13,13 161:21 164:17 171:20 176:5 understanding 28:18,19 31:7 34:20 48:5 51:20 56:3 58:16 59:7 59:12 73:12 95:10	119:16 121:16 126:9 166:3 169:11 175:2 176:15 understood 10:14 35:10 167:18 173:12,19 174:10 United 1:2 5:6 7:9 31:1 92:7,10,15 93:19 94:2 100:18 102:6,13 106:2 107:3 135:16,20 145:16 151:20 160:7,8 161:10 165:3 184:6 upset 155:9,10,15 156:3 157:3 use 101:15 114:6 177:9 usually 104:14 utilized 104:19 U.S 165:19 177:5 177:10,18 178:3,4 183:9,10 U.S.A 67:10 V vague 31:9 33:19 78:8 100:7 154:14 vagueness 107:4 Valerie 3:19 6:12 6:16 verbally 8:17 Veronica 3:12 5:21 7:11 34:15 version 66:4 67:3 68:16 69:3,5 versus 5:5 79:18 150:7 172:18 184:17 vice 14:15 15:7 16:12,17 18:18 19:8 21:12 23:15 74:1 video 5:15 Videographer 3:20 5:1 6:9,14,19 61:8 61:11 79:7,12,16 118:5,8 150:1,5 164:1,4 178:12,15 184:13 videotaped 2:10 5:2 Vincent 17:19 visit 46:2 98:2 146:12 147:11 160:8 visited 147:3 visiting 146:16	vis-a-vis 37:5 vocabulary 28:16 vouch 73:6 VP 51:17 vs 1:9 187:5 188:1 W wait 15:13 41:13 131:12 want 9:8 10:11 19:14 27:21 34:15 44:11 103:13 111:8 117:21 120:20 wanted 41:20 47:1 47:2,9 50:18,20 51:2,3 52:6,9 54:19 61:15 64:14 64:17 123:15 137:2 148:1 157:21 170:5,7 Washington 1:16 2:15 3:8 5:11 187:2 wasn't 41:12 70:2 77:18 96:7 145:12 151:2 way 7:8 73:17 94:13 111:21 week 74:16,19,20 95:17 weekly 74:13,15 welcome 28:5 went 40:16 45:11 47:20 161:2 166:20 we're 130:14 winter 49:4 wise 96:15 wish 115:3 withdraw 70:6 witness 6:21 9:5 13:20 20:14 24:4 25:10,17 27:4 30:17 37:17,21 44:17 46:7 57:16 59:21 60:6 61:5 65:6 72:20 73:9 74:9 81:7,12 83:7 83:10 84:20 101:18 102:2,14 112:7,15 116:16 121:20 133:5 151:16 163:19 184:11 186:4,6,10 187:10 wondering 66:5 word 111:2 115:10	180:13 work 11:9 12:1,11 30:3 41:20 worked 13:15,20 14:12,14,18 18:6 19:9 58:10 119:5 121:11 161:10 working 11:5,16 23:11 33:14 36:8 58:14 84:19 91:21 107:10,11 129:19 works 104:15 112:14 165:13 wouldn't 64:2 65:11 67:6 68:18 72:2 83:7 109:3 110:6 111:1 127:7 write 76:9 131:10 157:4 writing 96:20 123:10 145:1 153:21 156:11 written 7:21 8:6,7 17:17,19 20:17 65:10 67:16 73:13 76:17 90:8,11 121:12 123:10,13 151:18 157:15 168:18 175:17 176:7 180:8,9 wrong 109:6 Y yeah 11:12 15:3,8 26:18 27:5 32:8 32:12 35:11 39:9 42:20 43:3 49:13 51:12 56:5,10,15 58:8 59:6 63:18 65:14 69:14 70:17 76:15 77:17,17 82:12,17 84:4 89:2 90:15,17 91:20,21 94:17 97:9 98:13 99:11 104:14 106:15 107:11 108:14,18 111:19,20,20 112:1,7,10 117:4 118:21 119:9 123:17 124:11 125:10,10,10 128:4 129:17 136:8 140:11 148:19 149:7 150:21 151:1 153:9 159:16 169:3 170:1 171:1
--	--	--	---	---

Page 202

172:8 173:11 175:13 176:5,16 176:21 178:4 year 11:19 17:15 39:17 40:2,4 44:5 49:6 82:16 87:1 97:11 142:9 158:4 176:8 years 11:19 13:11 14:3,5,18 19:20 19:21,21 20:2 27:18 yep 130:16 139:17 yesterday 28:14 YL 71:21 72:5 Yves 1:15 2:10 4:2 5:3 7:1,20,21 79:17 146:12 150:6 184:16 185:2,10 187:9 188:2,19 Y-V-E-S 7:21	12th 130:19 12-12-01 4:14 12:23:02 118:6 1201 2:13 3:6 5:10 187:1 124 4:13 13:22:29 118:9 130 4:14 139 4:15 14 124:18 186:21 14:18:34 150:3 14:25:21 150:9 14:49:14 164:2 146 4:16 15 48:16 15th 138:4 15:03:55 164:5 15:28:36 178:13 15:33:35 178:16 15:43:41 184:14 15:45:24 184:18 16 8:5 164 4:4 168 4:17 175 4:18 178 4:3 19th 176:7 1979 14:8 1988 15:20 1999 19:15	146:17 147:12 2003 27:18 2004 13:1 14:8 15:6 16:6 19:16 25:7 25:11 26:5,9 82:16 2006 1:17 2:6 5:11 79:19 150:8 184:18 188:2 2010 186:21 202-659-7865 3:9 22nd 168:17 23rd 142:6,7,9,11 146:14,17 29 65:20 70:16 73:2 29th 158:3 161:3	79 13:1 14:10 8 8 4:16 145:21 146:1 85 14:7 16:2 88 14:7 15:1 16:3 9 9 4:17 167:21 168:1 170:14 179:15,16 179:19 182:8,17 9:00 2:7 9:03 5:12 99 15:3
Z Zaragosa 31:17,18 39:11 85:9 92:4 98:3 117:3 148:18 173:5		3 3 4:11 97:19 108:20 108:21 120:17 150:6 176:18,19 183:4 184:15 3:45 184:20 30 187:11	
0 009250 43:2 02199 3:16 04-1300 5:8 04-1300-SLR 1:4	2 2 4:10 53:16 59:11 61:3,19 63:1 65:3 65:4 79:17 97:19 131:6 150:2 20 164:10 2000 15:4,6 20:3,4 39:18,18,20 40:8 40:11 44:7,12,20 45:8 47:18 48:14 49:3 61:17 66:15 70:16 73:2 77:15 82:16,17 87:7 89:3 109:17 157:9 158:3 161:3 168:17 173:20 174:11 176:8,14 179:1 20004 3:8 187:2 2001 63:20 77:15 87:8,9 97:12 114:2,9 116:2 124:18 125:12 130:19 138:4 139:13 2002 64:21 97:19 142:10,12 146:14	4 4 4:12 118:15,16 142:1,18 143:6,11 143:15 144:9,18 145:2 148:15 162:4,17 176:14 4th 109:19 176:6 43 4:8	
1 1 4:8 5:2 43:6,8,9 43:13 53:17 55:18 58:9 79:13 165:9 179:11 180:16 182:7,16 1-2-02 4:15 1-23-02 4:16 10 4:18 175:5,6 183:3 10th 176:12 10-19-00 4:18 10:31:16 61:9 10:50:11 61:12 100 16:5 27:1 108 4:11 11-14-01 4:13 11-22-00 4:17 11:20:11 79:14 11:21:15 79:20 111 3:15 118 4:12 12 139:13		5 5 4:13 11:14 123:19 124:3 141:19 5th 26:8 50 16:3 69:1 500 2:14 3:7 187:2 58 68:19 69:2	
		6 6 4:14 130:4,5 139:16 141:7,15 60 69:6,7,12 600 16:8 617-239-0100 3:17 65 4:10 6730 1:21	
		7 7 1:17 2:6 4:3,15,18 5:11 79:19 139:1 139:2,15 150:8 179:10,15 184:17 188:2 7th 147:5	

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3 ETHYPHARM S.A. FRANCE and :

4 ETHYPHARM S.A. SPAIN, :

5 Plaintiffs, : C.A. No. 04-1300 SLR

6 v. :

7 BENTLEY PHARMACEUTICALS, :

8 INC., :

9 Defendant. :

10 : Pages 1 - 164

11
12
13 Deposition of LAWRENCE G. MEYER

14 Washington, D.C.

15 Friday, August 4, 2006

16
17
18
19
20 Reported by: George W. Tudor, CSR

21 T. J. O'Toole, CLVS

Page 2

August 4, 2006
9:36 a.m.

Deposition of LAWRENCE G. MEYER, held at

Baach, Robinson & Lewis, PLLC
1201 F Street, N.W.
Suite 500
Washington, D.C. 20004

Pursuant to notice, before George W. Tudor, CSR,
a Notary Public of the State of Maryland, and
T. J. O'Toole, Certified Legal Video Specialist.

Page 4

CONTENTS

EXAMINATION OF LAWRENCE G. MEYER

BY: PAGE:
MR. MINGOLLA: 6
MR. FINE: 149
MR. MINGOLLA: 156

EXHIBITS DESCRIPTION PAGE

No. 1 Copy of complaint 14
No. 2 Manufacturing agreement 43
No. 3 Letter of purchase undertaking 43
No. 4 Letter and draft agreement 53
No. 5 (Number omitted through error.)
No. 6 Letter 71
No. 7 Letter 72
No. 8 Confidentiality agreement 122
No. 9 Letter 146
No. 10 Fax 149
No. 11 Press release 152

Page 3

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Page 5

PROCEEDINGS

THE VIDEOGRAPHER: On the record with
tape number one of the videotape deposition of
Lawrence G. Meyer, taken by the defendants in the
matter of Ethypharm S.A. France and Ethypharm
S.A. Spain versus Bentley Pharmaceuticals,
Incorporated, in the United States District Court
for the District of Delaware, Case Number 04-1300
SLR.

This deposition is being held at the law offices
of Baach, Robinson and Lewis, located at 1201 F
Street, Northwest, in Washington, D.C. on August
4th, 2006, at approximately 9:36 a.m.

My name is T. J. O'Toole, representing Esquire
Deposition Services. I am a certified legal
video specialist. The court reporter is George
Tudor, also representing Esquire Deposition
Services.

Will counsel please introduce themselves and
indicate which parties they represent.

MR. MINGOLLA: Joseph Mingolla,

2 (Pages 2 to 5)

Page 6

Page 8

1 representing the defendant Bentley
 2 Pharmaceuticals, Incorporated.
 3 MR. FINE: Jonathan Fine, representing
 4 the plaintiffs, Ethypharm France and Ethypharm
 5 Spain.
 6 THE VIDEOGRAPHER: Thank you.
 7 Will the court reporter please swear in the
 8 witness.
 9 Thereupon,
 10 LAWRENCE G. MEYER,
 11 a Witness, called for oral examination by counsel
 12 for the Plaintiffs, having been duly sworn by the
 13 Notary Public, was examined and testified as
 14 follows:
 15 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS
 16 BY MR. MINGOLLA:
 17 Q Good morning, Mr. Meyer.
 18 A Good morning.
 19 Q Would you state your full name for the
 20 record, please?
 21 A Lawrence G., that's George, Meyer,

1 MBA, but didn't finish it. Went to Michigan law
 2 school and graduated with a JD in December of
 3 1964.
 4 Q And you are an attorney?
 5 A Yes.
 6 Q And when were you admitted to practice?
 7 A After Michigan law school, I went to
 8 Wisconsin initially and was admitted in 1965 in
 9 both Wisconsin and Illinois. Came to work for
 10 the Justice Department in 1966 and was admitted
 11 in the District of Columbia in 1966.
 12 Q And are you still admitted to practice
 13 in the District of Columbia?
 14 A Yes.
 15 Q Are you admitted to practice anywhere
 16 else?
 17 A Still admitted in both Wisconsin and
 18 Illinois.
 19 Q And you're a member in good standing in
 20 each of those bars?
 21 A Yes.

Page 7

Page 9

1 M-E-Y-E-R.
 2 Q And your residence address?
 3 A 8777 Belmart, B-E-L-M-A-R-T, Road,
 4 Potomac, Maryland, 20854.
 5 Q Thank you. Have you ever deposed
 6 before?
 7 A Yes.
 8 Q On how many occasions?
 9 A I have practiced law a long time, and
 10 my best estimate would be ten or twelve.
 11 Q Okay. I will not waste much time going
 12 through the usual litany of instructions, then.
 13 Obviously though, if any of my questions are
 14 unclear to you or you need any clarification,
 15 please let me know and I'll do my best to clarify
 16 the questions for you.
 17 Would you please describe your educational
 18 history, beginning with college.
 19 A Grew up in Michigan and went to
 20 Michigan State University, where I got a Bachelor
 21 in Economics and Accounting in '61. Worked on my

1 Q You have never been disciplined by any
 2 bar association?
 3 A No.
 4 Q Okay. Are you currently employed?
 5 A Yes.
 6 Q Where?
 7 A I have my own law firm, which is the
 8 Law Offices of Lawrence G. Meyer, and that's at
 9 1735 New York Avenue, Suite 700, Washington, D.C.
 10 Q Are you a sole practitioner?
 11 A Pretty much, although my wife is also
 12 an attorney and she assists me, and over the
 13 years I have developed a number of relationships,
 14 and so you might say I have a number of virtual
 15 partners.
 16 Q And when did you open up your own law
 17 office?
 18 A In 2001, although prior thereto I had
 19 really been functioning pretty much as a sole
 20 proprietor, but I was also a partner in Gatsby
 21 and Hannah from 1995 to 2000.

3 (Pages 6 to 9)

Page 10

Page 12

1 Q And prior to starting at Gatsby and
2 Hannah in 1995, were you at the Department of
3 Justice, or somewhere else?

4 A Well, just briefly, I went to the
5 antitrust division of the Department of Justice
6 in '66, became legal counsel and a legislative
7 assistant to Senator Robert B. Griffin from 1970
8 to nineteen seventy -- I'm sorry, 1968 to 1970,
9 late '70. Became Director of Policy Planning at
10 the Federal Trade Commission in 1970 through 1972.
11 Thereafter, I became a partner in Patton, Boggs
12 and Blow for about fourteen years, and from 19 --
13 essentially '85 to '95, was a partner at Arent,
14 Fox, at that time, Kintner, Poltkin and Kahn, and
15 then from there, went to Gatsby, and we have
16 talked about the later years.

17 Q What practice area or areas were you in
18 at Gatsby and Hannah?

19 A At Gatsby and Hannah, at that stage of
20 my life, I was doing a fair amount of Lanham Act
21 litigation for some major drug companies and also

1 firms are corporations, but I still -- you know,
2 I still do a fair amount of individual work, but
3 a lot of that is virtually pro bono.

4 Q With respect to foreign languages, do
5 you speak French?

6 A Un peu.

7 Q Do you write in French?

8 A I can understand the written word, but
9 I don't write in French.

10 Q Okay. What about Spanish?

11 A No.

12 Q Can you speak Spanish?

13 A No. Other than the normal tourist
14 words.

15 Q Ola. Okay.

16 Are you being compensated for testifying today?

17 A It's never come up. You know, I guess
18 I hope to be.

19 Q Do you plan to submit a bill to
20 Ethypharm for the time you spend testifying
21 today?

Page 11

Page 13

1 doing drug molecule development and traditional
2 antitrust work, you know, principally, you know,
3 tracking back to my time in the antitrust
4 division and the FTC.

5 Q And with your own shop, what practice
6 areas do you currently engage in?

7 A You know, I'm a little gray these days,
8 and I still do a lot of the same things. I'm
9 doing some sort of major strategic work for a
10 couple of developers and still do some drug
11 molecule work and I still do some work for
12 Ethypharm, although with the change in management
13 at Ethypharm, that's been less active the last
14 several months.

15 Q Are the majority of your clients
16 corporate clients?

17 A I would say yes.

18 Q Has that been the case since at least
19 1995 to the present?

20 A Oh, I think -- I mean, I think in
21 today's world, I think most clients of major

1 A Well, having not thought about it, but
2 having had you raise the question, I would say
3 probably.

4 Q Do you have a typical hourly rate that
5 you charge Ethypharm for legal services you
6 render?

7 A In the past -- in the past, I have
8 always given them a discounted rate. My hourly
9 rate is short of a variable rate depending on the
10 client, but -- and I think they have had a very
11 low rate, you know, a low rate relative to my
12 traditional rate, for a number of years.

13 Q And what is that rate, the hourly rate
14 that you provide to them?

15 A \$550 an hour.

16 Q Okay. Prior to today's deposition, did
17 you do anything to prepare for the deposition?

18 A The only thing that I did to, you know,
19 prepare for it was to read the complaint, because
20 I remember seeing the complaint before it was
21 filed, because I'm mentioned by name in the

4 (Pages 10 to 13)

Page 14

Page 16

1 complaint, and I talked briefly with both Bruce
2 Grace and Dwight Bostwick this morning. And Joel
3 was sitting in that meeting as well.

4 MR. MINGOLLA: Well, you mentioned that
5 you have reviewed it, so why don't we mark it as
6 the first exhibit.

7 THE WITNESS: Sure.

8 MR. MINGOLLA: Could I have that marked
9 as Exhibit 1, please?

10 (Meyer Deposition Exhibit No. 1 marked
11 for identification.)

12 BY MR. MINGOLLA:

13 Q You have been handed what's been marked
14 as Exhibit 1. Do you recognize the document?

15 A Yes, and I -- you know, I suspect that
16 the complaint I looked at before this was exactly
17 the same, although it was set up differently.
18 You know, it was a different type font and it was
19 a different pagination, but I suspect it is the
20 same. I may have been looking at an earlier
21 draft, but I see that paragraph 101 where I'm

1 A It would have had to be a few months
2 before the filing date.

3 Q Do you recall how many drafts of the
4 complaint you saw prior to the filing of the
5 lawsuit on or about September 27th, 2004?

6 MR. FINE: Objection, relevance, and to
7 the extent that his discussion and review of
8 drafts is privileged, we raise privilege.

9 A You know, I would give you my best
10 estimate that I saw a couple.

11 BY MR. MINGOLLA:

12 Q Okay. Now, the plaintiffs listed in
13 the caption are Ethypharm S.A. France and
14 Ethypharm S.A. Spain. Do you see that?

15 A Yes.

16 Q And earlier. You mentioned that you
17 still do some work for Ethypharm; is that
18 correct?

19 A Right.

20 Q Do you currently do work for Ethypharm
21 S.A. France?

Page 15

Page 17

1 mentioned reads the same.

2 Q Just for the record, could you identify
3 what's been marked as Exhibit 1?

4 A Exhibit 1 is the complaint in the
5 United States District Court for the District of
6 Delaware, Ethypharm S.A. France and Spain against
7 Bentley.

8 Q When did you first see the complaint?

9 A Ooh. Let's see. It was filed...

10 Q I think the filing date is on the front
11 page.

12 A September 27th, 2004. I would have
13 seen -- I would have seen this complaint in
14 early -- in early form. I would have been -- I
15 would have been shown early drafts by Baach,
16 Robinson, because, you know, I was in the
17 discussions as to whether to bring this case.

18 Q And can you give me your best
19 recollection as to when you think you first saw a
20 draft of a complaint against Bentley
21 Pharmaceuticals, Inc.?

1 A Yes.

2 Q What about Ethypharm S.A. Spain?

3 A I have never -- have never really done
4 any work where I have billed a subsidiary, and
5 actually never done any work for the subsidiary.
6 The work I have all done was at the direction of
7 Mr. DeBregeas, and to some extent Mr. Leduc, and
8 that would have been Ethypharm France.

9 Q You indicated in your earlier answer,
10 but just for the record, can you explain to me
11 your understanding of the relationship, if any,
12 between Ethypharm Spain and Ethypharm France?

13 A I believe Ethypharm France owns
14 Ethypharm Spain.

15 Q Do you know if Ethypharm Spain is still
16 an operating subsidiary?

17 A I do not know that.

18 Q When did you first perform legal
19 services for Ethypharm France?

20 A I first performed legal services for
21 Ethypharm France in about 1986 or '87.

5 (Pages 14 to 17)

Page 18

Page 20

1 Q And at that point, which firm were you
2 at?

3 A At that point I would have been with --
4 I would have left Patton, Boggs in '85 and I
5 would have been with Arent, Fox.

6 Q And without disclosing the substance of
7 the work you performed for Ethypharm France
8 starting at that point, can you tell me what type
9 of work it was? Was it corporate work, tax work,
10 some other kind of work?

11 A Well, you know, I think it's pretty
12 well known what I did in the days, but the fact
13 is, I was representing at that stage a number of
14 major pharmaceutical companies -- when I say a
15 number, two or three -- and I was doing a lot of
16 strategic work for Marion Laboratories, which
17 then became Marion, Merrill, Dahl, and in
18 connection with that representation, I was using
19 a Canadian pharmacologist and Canadian
20 toxicologist to ascertain, you know, some of the
21 world product development issues associated with

1 of project-driven. That changed in, I would say,
2 the mid-'90s, where it became more of a
3 continuous role, really giving them advice on a
4 broader range of issues, particularly those that
5 were raised in the U.S., because by this time
6 they had a facility in Montreal and were actively
7 looking at ways of expanding their U.S. presence,
8 but also giving them advice on how best to
9 exploit their asset base. And since '95,
10 certainly through -- and certainly through 2005,
11 it was a continuous representation.

12 Q At any point, did the advice on the
13 broader range of issues you just mentioned extend
14 to advice concerning Ethypharm Spain?

15 MR. FINE: Objection.

16 A Well, the answer would be yes, because
17 in that period of time we were dealing with the
18 relationship between Ethypharm and Bentley and
19 Bentley subsidiary Belmac. And Belmac, of
20 course, was in Spain and it was working with
21 Ethypharm Spain, as well as Ethypharm France as a

Page 19

Page 21

1 diltiazem.

2 In that connection, the fellow that I was using
3 in Montreal, a fellow by the name of Gil Caia
4 (phonetic), was the head of the pharmacology
5 department at the University of Montreal;
6 introduced me to DeBregeas, and that grew to a
7 relationship where, at Arent, Fox, he retained us
8 to assist them in sort of overall global
9 positioning and tactical advice relative to their
10 exploitation of their -- their assets, their
11 technology, their processes, et cetera.

12 Q And you still do work for Ethypharm;
13 that's correct?

14 A Yes.

15 Q Have you represented Ethypharm steadily
16 from 1986 to the present, or has it been a series
17 of engagements, isolated engagements during that
18 period?

19 A I would say that, you know, the
20 representation has been sort of like this: In
21 the early years, the representation was just sort

1 part of this relationship.

2 Q Has -- at any point, has anyone from
3 Ethypharm ever signed a letter of engagement with
4 you, or a firm that you have worked at?

5 A I'm sorry?

6 Q A letter of engagement.

7 A From --

8 Q By anyone at Ethypharm, retaining you.

9 A No, they have just paid my invoices.

10 On occasion.

11 Q How much money have you received from
12 Ethypharm in return for legal services, would you
13 estimate?

14 A For what period?

15 Q Let's take from 1995 to the present.

16 If you had to estimate.

17 A As a result of the major drug
18 development deals that I was instrumental in
19 putting together with Ethypharm and two, if not
20 three major pharmaceutical companies, I would say
21 the fees from Ethypharm since '95 would be in the

6 (Pages 18 to 21)

Page 22

Page 24

1 neighborhood of five million dollars.
 2 Q And in the past three years, what would
 3 be your estimate has been the amount of fees you
 4 have received from Ethypharm?
 5 A I would say that in the past three
 6 years, those fees would be between a million,
 7 five and two million dollars.
 8 Q Have you received any other form of
 9 compensation from Ethypharm?
 10 A No.
 11 Q Are you a stockholder of Ethypharm?
 12 A No.
 13 Q Have you been retained by Ethypharm to
 14 represent it in connection with the lawsuit
 15 that's currently pending in the United States
 16 District Court for the District of Delaware?
 17 A No. No, because from the very
 18 beginning -- from the very beginning it was clear
 19 that if this lawsuit were to go forward, I would
 20 probably be a witness, and therefore, I wasn't
 21 going to be able to participate.

1 litigation pending outside of the United States?
 2 A No.
 3 Q A few moments ago you mentioned a
 4 company called Bentley Pharmaceuticals, Inc.
 5 A Yes.
 6 Q If I refer to that entity as Bentley,
 7 you will understand the entity to which I'm
 8 referring?
 9 A Yes.
 10 Q Great. Have you ever performed any
 11 legal services for Bentley?
 12 A No.
 13 Q When was the first time you ever heard
 14 of Bentley?
 15 A The first time I ever heard of Bentley
 16 would track back to the mid-'90s, and I'm
 17 specifically recalling issues at that point were
 18 arising on omeprazole in terms of strategic
 19 issues for Ethypharm, and that Bentley had taken
 20 over Belmac in about the '97 time frame, and
 21 Belmac was -- you know, let's -- for lack of a

Page 23

Page 25

1 Q Do you do any litigation work?
 2 A Yes. For clients.
 3 Q What percentage of your professional
 4 life would you estimate you devote to litigation,
 5 as opposed to advice?
 6 A Historically, it would have been a
 7 higher percentage, because I have tried some
 8 major Lanham cases; you know, the record would
 9 reflect those. But in the world as it exists
 10 today, litigation would be a relatively --
 11 actual, active litigation would be a relatively
 12 small percentage of my overall activity.
 13 Q And what would be your estimate as to
 14 the -- presently?
 15 A Ten or fifteen percent.
 16 Q Okay. And back in 2002, what would be
 17 your estimate as to the amount of time you spent
 18 litigating?
 19 A I would say fifty percent at that
 20 stage.
 21 Q As of 2002, were you involved in any

1 better phrase, let's call them a contract
 2 manufacturer, that omeprazole was being produced
 3 by Belmac with Ethypharm's technology, know-how,
 4 processes, and equipment, too, I believe. And
 5 Bentley was taking over Belmac. And if I were to
 6 give you a date on that, I would say it was
 7 '97-ish. That's when I first was aware of
 8 Bentley as an entity, I think. You know, it may
 9 have been a little earlier, may have been a
 10 little later. I don't know when Bentley went on
 11 the New York Stock Exchange, but was aware that
 12 Bentley was out there in that time frame.
 13 Q Do you recall how you learned about
 14 that?
 15 A There was a -- there were tensions, I
 16 think, between Belmac and Ethypharm, and there
 17 were tensions that ran both ways, you know,
 18 whether it be billing tensions or production
 19 tensions or, you know, customer tensions, and it
 20 was something that was brought up in a
 21 discussion, you know, I think, with DeBregeas

7 (Pages 22 to 25)

Page 26

1 about Bentley. And Bentley, to me, was Murphy.
 2 Bentley was Murphy. I didn't know any of the
 3 other names at Bentley other than Murphy.
 4 Q What was your understanding -- strike
 5 that.
 6 What understanding, if any, did you have as to
 7 the relationship between Bentley and Belmac as of
 8 1997?

9 A Well, I mean, I maybe didn't make
 10 myself clear. I thought that in '97 or so, that
 11 Bentley had taken over Belmac and was running
 12 Belmac.

13 Q Was it your understanding that Belmac
 14 was a wholly-owned subsidiary of Bentley?

15 A I didn't know exactly the corporate
 16 format. In fact, I suspect that it is a
 17 wholly-owned subsidiary, but just thought that
 18 Bentley was running Belmac, you know, and I --
 19 you know, something crossed my mind where this
 20 wasn't -- what DeBregeas was saying, this was a
 21 document from Bentley that crossed my platter or

Page 27

1 my face back in '97-ish, where Murphy -- Bentley
 2 had said they were taking over Belmac, and it had
 3 to do with some underlying dispute, whether or
 4 not it be payment by Ethypharm to Belmac or
 5 Ethypharm to Bentley, I don't recall the
 6 undercurrent of that, but I just recall the
 7 statement by Murphy in this letter from Bentley
 8 that he was taking over Belmac. You know,
 9 that -- you know, that was when I said in
 10 response to your question when I first learned
 11 about Bentley.

12 Q Did you inquire of anyone -- strike
 13 that.
 14 Did you do any research with respect to any
 15 public filings of Bentley to see what
 16 relationship, if any, existed between Bentley and
 17 Belmac?

18 A No, not at that time.

19 Q Do you recall asking anyone at
 20 Ethypharm for any information that they might
 21 have about the relationship, if any, between

Page 28

1 Bentley and Belmac?

2 MR. FINE: Objection, to the extent
 3 that that does not call for privileged
 4 information.

5 A I just think the discussion that we
 6 had -- the discussion we had would have been a
 7 discussion with DeBregeas about the fact that
 8 Bentley was a company in New Hampshire running
 9 Belmac, their contract producer in Spain.

10 Q A moment ago you mentioned the name Jim
 11 Murphy.

12 A Right.

13 Q Do you know who he is?

14 A Only that he's the CEO of Bentley. I
 15 have never met him. I thought I was going to
 16 meet him once, but have never met him.

17 Q Do you know if he has any position or
 18 positions in Laboratorios Belmac?

19 A I thought -- there was a meeting that I
 20 attended in February of 2001 or so. I mean, I'm
 21 having trouble with years when I think back about

Page 29

1 these things, but the fact is that the meeting at
 2 which time I think it was mentioned that -- and I
 3 thought -- this was a meeting at which I thought
 4 Murphy was going to appear, and I thought that he
 5 was the CEO of Bentley and possibly also the CEO
 6 of Belmac, but, you know, I don't know that and
 7 I'm just giving you what I thought.

8 Q I appreciate the fact that it's been a
 9 few years since you have had to worry about this.
 10 If you would turn to paragraph 38 of the
 11 complaint, and I will read the first sentence of
 12 that paragraph.

13 "James Murphy, who is the chairman, president and
 14 CEO of Bentley, also acts as the general manager
 15 of Belmac S.A." Does that refresh your
 16 recollection as to any title or titles that
 17 Mr. Murphy might have had within Laboratorios
 18 Belmac?

19 A Yes. When I looked at this, I ripped
 20 through that. Sure. I mean, obviously he
 21 functions as a general manager, which to me is

8 (Pages 26 to 29)

Page 30

Page 32

1 sort of a CEO title. Maybe a COO title.
 2 Q You indicated you have never met
 3 Mr. Murphy?
 4 A No, I haven't.
 5 Q Have you ever spoken to Mr. Murphy on
 6 the telephone?
 7 A No.
 8 Q Have you ever sent a letter to
 9 Mr. Murphy?
 10 A No, but I have participated in the
 11 preparation of letters that have gone to
 12 Mr. Murphy.
 13 Q Have you personally ever received any
 14 letter from Mr. Murphy?
 15 A No.
 16 Q Have you ever sent an e-mail to
 17 Mr. Murphy?
 18 A No.
 19 Q Have you ever received an e-mail from
 20 Mr. Murphy?
 21 A No.

1 Ethypharm really always had a terrific reputation
 2 in drug delivery. It was the largest drug
 3 delivery company in Europe, you know, not that
 4 recently, and they were having trouble, you know,
 5 making the right kind of arrangements with the
 6 major companies to exploit their technology and
 7 their abilities, and, you know, the first major
 8 deal was a -- dated in '97, and that took a
 9 little while for us to sort put together. And so
 10 in that time frame, you know, '95, '96, '97, I
 11 was clearly aware that their technology, their
 12 glad technology, their micronization, their
 13 sustained release technology was being utilized
 14 by Belmac, because they were producing omeprazole
 15 in Spain, you know, at this Belmac facility.
 16 And so, you know, it wouldn't have been in any
 17 other context other than sort of an understanding
 18 what Ethypharm was doing and what it was
 19 producing, and in those days, diltiazem was one
 20 of their major products, and the technology in
 21 diltiazem, you know, small-bead drug development,

Page 31

Page 33

1 Q Aside from Mr. Murphy, have you
 2 communicated with anyone else at Bentley
 3 Pharmaceuticals?
 4 A No.
 5 Q Have you ever performed any legal
 6 services for Belmac?
 7 A For Belmac?
 8 Q Yes.
 9 A No. No.
 10 Q When did you first hear of Laboratorios
 11 Belmac? Was it also in this 1997 time frame that
 12 you mentioned earlier, or was it a different
 13 time?
 14 A It might have been slightly earlier,
 15 and it would have been, you know, it would have
 16 been in that -- let's just for precedence say
 17 '95, '96, '97 period of time, when -- you know,
 18 in connection with the sort of general strategic
 19 advice I was giving Ethypharm and helping them,
 20 if you will, exploit the value of their
 21 technology.

1 sustained release, was the same sort of
 2 technology they were using in omeprazole.
 3 Q The -- do you recall first hearing of
 4 Laboratorios Belmac before you had first heard of
 5 Bentley?
 6 A I can't answer that. I -- you know,
 7 would be hard for me to say whether it was
 8 Bentley or Belmac early on. I mean, you know, in
 9 back -- if you go back almost ten years, they
 10 sort of -- they're sort of merged, they're sort
 11 of fused in my mind.
 12 Q Do you know whether Belmac developed --
 13 strike that.
 14 Do you know whether Belmac has ever developed its
 15 own technology for the manufacture of omeprazole?
 16 MR. FINE: Objection. Not relevant to
 17 phase one.
 18 A I don't -- you know, I mean, I'll
 19 answer the question this way: I don't believe
 20 that they developed their own technology; I
 21 believe what they developed was based on the

9 (Pages 30 to 33)

Page 34

Page 36

1 Ethypharm technology. I am aware of that because
2 that really was the subject of the meeting that
3 is referenced in the complaint.

4 Q And we're going to get to that meeting,
5 as you can imagine.
6 I guess my question at this point is, did you do
7 any investigation as to whether or not Belmac was
8 in fact developing its own technology for the
9 manufacture of omeprazole?

10 MR. FINE: Object, to the extent not
11 privileged.

12 A I was clearly aware from discussions
13 with Ms. Joannesse and -- you know, and Leduc and
14 DeBregeas, you know, that they were claiming to,
15 because clearly in the time frame -- in the time
16 frame preceding the meeting that's referenced in
17 the complaint, you know, we saw press releases
18 about the fact that they had filed for their own
19 omeprazole patents and done things of that sort,
20 but those were, you know, those were sort of part
21 of that subject of the meeting.

1 companies that were manufacturing omeprazole as
2 of 2002?

3 A My guess would be, even though Astra
4 had really done a great job in protecting its
5 intellectual property, that the -- certainly you
6 would have had Bic-Goulding, Takada and other
7 licensees of all those companies, but it would
8 have to have been a number -- a number in the ten
9 to twenty range.

10 Q Okay. Did you ever learn of an
11 arrangement between Ethypharm Spain and Belmac
12 concerning the manufacture of omeprazole?

13 A Yes.

14 Q And when do you recall first becoming
15 aware of such an arrangement?

16 A Well, I mean, certainly in that '95,
17 '96, '97 time frame and certainly at that point
18 when -- you know, when I, as I explained, I was
19 aware that Murphy and Bentley had taken over
20 Belmac, or at least that's what I saw, and that
21 there was obviously some tension in the

Page 35

Page 37

1 Q Do you have any understanding -- and I
2 am talking about the 2002 time frame.

3 A Okay.

4 Q Do you have any understanding as to the
5 approximate number of companies worldwide that
6 manufactured omeprazole?

7 A I do, because -- because we also did a
8 drug development deal with Astrazenica in late
9 '99 and were very much aware of where omeprazole
10 production was taking place in connection with
11 that development, and, you know, it was obviously
12 being produced in a number of country around the
13 world. I do not know the number of countries --
14 number of companies in Spain that produced
15 omeprazole, but I'm aware that there were more
16 than one.

17 Q Do you recall if it was more than five?

18 A It wouldn't surprise me, but I can't
19 answer that question. I would be guessing.

20 Q I appreciate that fact. And globally,
21 do you have an estimate as to the number of

1 relationship between Belmac and Ethypharm on
2 product, billings and the like. I mean, that's
3 my recollection.

4 Q Do you know whether that arrangement
5 was a verbal arrangement or was it a written
6 agreement? And I'm dealing with the '95, 1996,
7 '97 time frame, whenever it was that you first
8 became aware of this arrangement.

9 A There were clearly contracts. You
10 know, because these would have been done, you
11 know, principally by Ms. Joannesse, and there
12 were clearly contracts, but, you know, it was a
13 hodgepodge. You know, there may have been some
14 verbal, there may have been some contracts, or
15 the contracts may have been divided; there may
16 have been partial contracts.

17 I think there was some tension, again, as to
18 whether or not Bentley/Belmac ever signed an
19 overall agreement. But there were clearly
20 contracts, because, you know, I remember seeing
21 contracts not only in the context of that

10 (Pages 34 to 37)

Page 38

Page 40

1 meeting, but earlier, in terms of what they were
2 doing, because it was very relevant to us,
3 because, you know, you cannot really talk -- you
4 cannot talk to the majors about selling
5 intellectual property associated with your own
6 omeprazole patent, your own omeprazole processes,
7 without really having a handle on, you know, on
8 what's going on with those processes, because,
9 you know, those are the first kind of
10 representations you're going to have to give.

11 Q And again, we're going to get to the
12 2002 meeting in a little bit, but focussing --
13 directing your attention back to the '95, '96,
14 '97 time frame, do you recall seeing actual
15 signed contracts or do you recall seeing draft
16 contracts? Or both?

17 A Truly, I don't have a recollection of
18 seeing any contracts in that time frame,
19 specifically. I may well have, and if you were
20 to show me a contract that I initialed back then,
21 I would say sure, but right now as I sit here, I

1 selling Ethypharm customers its own product,
2 whether or not, you know, Ethypharm's customers
3 were being essentially given second- class
4 treatment as opposed to the Belmac customers.
5 That's sort of what I recall from the Ethypharm
6 side of the equation. On the Belmac side of the
7 equation, the only issue -- the only issue that
8 appeared to present the tension, the only one
9 that I can recall, was the fact that the -- there
10 was always a question, at least there seemed to
11 always be a question about whether or not the
12 accounts were current, whether or not Belmac was
13 being paid promptly. You know, and then you get
14 the back and forth, "Well, we can't pay you
15 promptly because you didn't serve our customers
16 or you didn't serve them timely," et cetera, but
17 it was that kind of a supplier -- supplier-vendor
18 difficulty.

19 Q Now, with respect to what you called
20 the drug manufacturing issues that Ethypharm had
21 with Belmac -- and this is a yes-or-no

Page 39

Page 41

1 wouldn't want to mislead you and say I did or I
2 didn't.

3 Q Now, you mentioned that tensions
4 between Belmac and Ethypharm ran both ways.

5 A Sure.

6 Q And I would like you in the first
7 instance to explain the tensions that Ethypharm
8 was experiencing vis-a-vis Belmac. I mean, what
9 complaints, if any, did Ethypharm have as to
10 Belmac back in that time frame?

11 A Well, the best I can recall is that
12 there were always questions about timely
13 deliveries -- timely deliveries to the Ethypharm
14 customers, you know, whether or not the product
15 was being produced pursuant to specs, you know,
16 whether or not the product was being, you know,
17 properly registered, you know, with the Spanish
18 health authorities and, you know, the sort of
19 typical drug manufacturing issues.
20 There were tensions that developed later as to
21 whether or not, you know, Belmac -- Belmac was

1 question -- did you provide any legal advice to
2 Ethypharm concerning those issues?

3 A No.

4 Q And did you provide -- again, a
5 yes-or-no question -- did you provide any legal
6 advice to Ethypharm with respect to the account
7 payable issue that Belmac had with Ethypharm?

8 A No.

9 Q A few moments ago, when we were talking
10 about the 1995, 1996, 1997 time frame, you
11 said -- you made a reference to when Mr. Murphy
12 took over Belmac. At least that's what I saw.

13 A Right.

14 Q Can you explain to me the basis for
15 that statement?

16 A Yeah. There was -- I mean, you know,
17 there was some sort of communication that
18 DeBregeas showed me from Bentley, and I -- you
19 know, this is a long time ago, this document, but
20 I remember the document, because, you know, this
21 was a relationship that had just sort of started

11 (Pages 38 to 41)

Page 42

1 for me, and any time I see, in a letter, you
 2 know, somebody saying they haven't been paid for
 3 a year or something like that, it sort of gets
 4 your attention, because as a lawyer, we sort of
 5 like to get paid, too, and I was looking at this
 6 letter saying, "Hmm," you know. And so I do
 7 remember that very specifically, that, you know,
 8 there was some delayment in payment, and
 9 Murphy/Bentley was saying that, you know,
 10 something to the effect that, you know, "We have
 11 really been good guys, because we have carried
 12 you a long time, you know, and I have now taken
 13 over Belmac and we will resolve the other issues
 14 as well." It was that kind of context. And I
 15 may be wrong on '97, but that's when I recall.

16 Q And again, this is a yes-or-no
 17 question, but the manufacturing issues that you
 18 discussed a moment or so ago, did you discuss
 19 those issues with either Mr. DeBregeas or
 20 Mr. Leduc back in that '95, '96, '97 time frame?

21 A Yes.

Page 43

1 MR. MINGOLLA: I would like to show you
 2 the next two exhibits. If I could have that
 3 marked as number two, please.

4 (Meyer Deposition Exhibit No. 2 marked
 5 for identification.)

6 MR. MINGOLLA: And that as number
 7 three.

8 (Meyer Deposition Exhibit No. 3 marked
 9 for identification.)

10 BY MR. MINGOLLA:

11 Q And while you're skimming those
 12 documents -- and I appreciate the fact that
 13 they're in Spanish, so I -- there's also a
 14 translation afterwards.
 15 Let me identify them for the record. What's been
 16 marked as exhibit number 2 is a three-page
 17 document bearing production numbers EP 002919
 18 through 2924, and Exhibit 3 is a one-page
 19 document bearing production number EP 002921.

20 A Okay.

21 Q And let's start with Exhibit 2. Have

Page 44

1 you ever seen that document before?

2 A Well, if I saw it in Spanish, it didn't
 3 do me much good, and I would say no. I would say
 4 no. I'm looking at the translation.

5 Q Yep.

6 A I would say no.

7 Q Have you ever seen even the translation
 8 of this document before?

9 A No.

10 Q If you would turn to the second page of
 11 the exhibit. Do you see the signature blocks?
 12 Looking at the second page of --

13 A Of the actual?

14 Q Of the actual.

15 A Yes.

16 Q Can you state for the record the two
 17 parties listed there, please?

18 A Well, that's not DeBregeas or Leduc or
 19 Laboratorios Ethypharm. That must be Adolfo.

20 Q My question was a bit unclear. Just
 21 the corporate parties, not the signature --

Page 45

1 A Well, Belmac, obviously.

2 Q Belmac. And is the other party
 3 Laboratorios Ethypharm S.A.

4 A Yes.

5 Q And the date of this document is March
 6 23rd, 2000, which is on the last sentence of the
 7 second page.

8 A Yes.

9 Q Do you see that?

10 A Yes.

11 Q Do you ever recall learning in or
 12 around March of 2000 that Ethypharm Spain and
 13 Belmac had entered into a manufacturing contract
 14 for indometacin?

15 A No. No.

16 Q Did you ever learn of that fact?

17 A I was aware, you know, as I tried to
 18 indicate earlier, I was aware that there were
 19 contracts here and there, and, you know, I'm not
 20 surprised, we may very well have looked at these
 21 kinds of contracts in the course of the

12 (Pages 42 to 45)

Page 46

1 discussions we had, both during and before that
2 meeting in February, 2002, but in terms of
3 specifically this contract, no.

4 Q Okay. Do you recall, turning to
5 Exhibit 3 now -- I think I know what the answer
6 to this will be, but I'll ask the question,
7 anyway. Have you ever seen that document before?

8 A No.

9 Q Have you -- did you ever learn that
10 Belmac and Ethypharm Spain had entered into a
11 contract for the manufacture of omeprazole? A
12 written contract, that is.

13 MR. FINE: Objection, asked and
14 answered.

15 A As I said, I thought that there were
16 pieces of contracts and there were, you know,
17 divisible contracts, you know, but if there was
18 ever an omnibus agreement between Bentley and
19 Ethypharm or Bentley, Belmac and Ethypharm or
20 Belmac and Ethypharm Spain, I don't believe I
21 ever saw it.

Page 47

1 Q Could you explain to me what you mean
2 by divisible contracts?

3 A Well, divisible contracts would be
4 contracts that might deal with, you know,
5 production, certain customers, a contract not
6 dissimilar to some of these, both Exhibit 2 and
7 3, where it's not really their overall
8 relationship, it's a contract that basically
9 is -- I suspect was designed to fix a problem at
10 the time, where, for example on Exhibit 3, they
11 -- "... undertakes to exclusively purchase for
12 its own needs and that of its clients from
13 Ethypharm, on the proviso that Ethypharm
14 guarantees that said supply will occur in the
15 time and manner established in the purchase
16 order."
17 You know, I read this in the context of what I
18 have testified to earlier about the tensions in
19 the relationship, and I suspect that these were
20 done periodically in order to fix either a
21 supply/delivery/customer preference issues. But,

Page 48

1 you know, that would be just my supposition,
2 because, you know, this is sort of the way I
3 thought they were doing business from day one.
4 You know, contract manufacturing often looks like
5 this.

6 Q And do you know the person or persons
7 at Ethypharm that were involved in this -- in
8 negotiating these divisible contracts with
9 Belmac?

10 A I don't know, but I would have to
11 assume that Roseline Joannesse and Adolfo --
12 were.

13 Q And when you say Adolfo, is that Mr. De
14 Basilio?

15 A Yes. The other Adolfo is your Belmac
16 fellow.

17 Q But sitting here today, do you know for
18 a fact whether Mrs. Joannesse was involved in
19 negotiating any of these divisible contracts with
20 Belmac?

21 A I do not know that as a fact.

Page 49

1 Q Take Exhibit 2 for one second, if you
2 wouldn't mind, and I would like to return to the
3 English translation. And specifically, page two
4 of the English -- actually, in the first
5 instance, let me ask you to look at page three,
6 and the annex indicates that the contract
7 pertains to micropellets of omeprazole. Do you
8 see that?

9 A Um-hmm.

10 Q Now, going back to page two, looking at
11 section E, under "They agree," the last
12 sentence -- and I'll admit this translation is a
13 bit rough -- "This agreement does not limit the
14 manufacturing of a product by part for Belmac for
15 its own market and the own of its customers."

16 A Right.

17 Q Did you ever learn of such a provision
18 in the agreement, in whatever form it was,
19 between Ethypharm and Belmac concerning the
20 manufacture of omeprazole?

21 A Well, I certainly was aware of the fact

13 (Pages 46 to 49)